

Stat. 17; Jan. 22, 1927, ch. 53, § 1, 44 Stat. 1024, and created a Board of Maternity and Infant Hygiene under supervision of Children's Bureau.

#### Chapter 6.—THE CHILDREN'S BUREAU

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#### § 191. Bureau established.

There shall be established in the Federal Security Agency a bureau to be known as the Children's Bureau. (Apr. 9, 1912, ch. 73, § 1, 37 Stat. 79; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

##### TRANSFER OF FUNCTIONS

"Federal Security Agency" was substituted for "Department of Labor" by 1946 Reorg. Plan No. 2, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees, which transferred the Children's Bureau, exclusive of its Industrial Division, from the Department of Labor to the Federal Security Agency. Functions of the Bureau, its Chief, and of the Secretary of Labor relating to such functions, were transferred to the Federal Security Administrator, except that—

Functions authorized by section 192 of this title and such other functions of the Federal Security Agency as the Administrator may designate are to be administered through the Children's Bureau under his direction and control; and

Functions of the Children's Bureau under sections 201-219 of Title 29, Labor, were transferred to the Secretary of Labor.

For transfer of personnel, property, records and funds, see section 12 of said Reorganization Plan.

For disposition of functions of the Children's Bureau within the Federal Security Agency, see Federal Security Agency Order 57, set out in note under section 902 of this title.

Act Apr. 9, 1912, established the Children's Bureau in the Department of Commerce and Labor. Act Mar. 4, 1913, transferred the Children's Bureau to the Department of Labor, which was created by said act, and is authority for the substitution of "Department of Labor" for "Department of Commerce and Labor".

#### § 192. Chief of bureau; investigations and reports.

The Children's Bureau shall be under the direction of a chief, to be appointed by the President, by and with the advice and consent of the Senate. The said bureau shall investigate and report to the Federal Security Administrator upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the questions of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several States and Territories. But no official, or agent, or representative of said bureau shall, over the objection of the head of the family, enter any house used exclusively as a family residence. The chief of said bureau may from time to time publish the results of these investigations in such manner and to such extent as may be prescribed by the Federal Security Administrator. (Apr. 9, 1912, ch. 73, § 2, 37 Stat. 79; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; Feb. 27, 1925, ch. 364 title IV, 43 Stat.

1050; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

##### AMENDMENTS

1925—Act Feb. 27, 1925, making an appropriation for the chief of the Children's Bureau "In accordance with the Classification Act of 1923", which was formerly classified to section 661 et seq. of Title 5, Executive Departments and Government Officers and Employees, is authority for the omission of "and who shall receive an annual compensation of five thousand dollars" at end of first sentence.

1913—Act Mar. 4, 1913, cited to text, creating the Department of Labor and transferring the duties of the Secretary of Commerce and Labor to the Secretary of Labor, is authority for the substitution of "Secretary of Labor" for "Secretary of Commerce and Labor" in last sentence. See note under section 191 of this title.

##### TRANSFER OF FUNCTIONS

"Federal Security Administrator" was substituted for "said department" and for "Secretary of Labor" by 1946 Reorg. Plan No. 2. See note under section 191 of this title.

#### § 193. Assistant chief.

There shall be in the Children's Bureau, until otherwise provided for by law, an assistant chief, to be appointed by the Federal Security Administrator. (Apr. 9, 1912, ch. 73, § 3, 37 Stat. 80; Mar. 4, 1913, ch. 141, §§ 3, 6, 37 Stat. 737, 738; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

##### CODIFICATION

Section, act Apr. 9, 1912, also provided for compensation of assistant chief and for appointment and compensation of other employees of the bureau.

##### TRANSFER OF FUNCTIONS

"Federal Security Administrator" was substituted for "Secretary of Labor" by 1946 Reorg. Plan No. 2. See note under section 191 of this title.

#### § 194. Quarters for bureau.

The Federal Security Administrator is directed to furnish sufficient quarters for the work of this bureau at an annual rental not to exceed \$2,000. (Apr. 9, 1912, ch. 73, § 4, 37 Stat. 80; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737; 1946 Reorg. Plan No. 2, § 1, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

##### TRANSFER OF FUNCTIONS

"Federal Security Administrator" was substituted for "Secretary of Labor" by 1946 Reorg. Plan No. 2. See note under section 18 of this title.

##### CROSS REFERENCES

For allotments of space in public buildings in the District of Columbia by Public Buildings Administration of Federal Works Agency, see 1939 Reorg. Plan No. 1, §§ 301, 303, 4 F. R. 2729, 53 Stat. 1426, 1427, set out as note under section 133t of Title 5, Executive Departments and Government Officers and Employees.

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## SUBCHAPTER I.—ADMINISTRATION

## § 201. Definitions.

When used in this chapter—

(a) The term "Service" means the Public Health Service;

(b) The term "Surgeon General" means the Surgeon General of the Public Health Service;

(c) The term "Administrator" means the Federal Security Administrator;

(d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Administrator;

(e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f) The term "State" means a State or the District of Columbia, Hawaii, Alaska, Puerto Rico, or the Virgin Islands, except that as used in section 264 (d) of this title such term means a State, the District of Columbia or Alaska;

(g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;

(h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;

(i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 3228 (f) of Title 26);

(k) The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation; and

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth. (July 1, 1944, ch. 373, title I, § 2, 58 Stat. 682; July 3, 1946, ch. 538, § 3, 60 Stat. 421; Feb. 28, 1948, ch. 83, § 1, 62 Stat. 38; June 16, 1948, ch. 481, § 6 (a), 62 Stat. 469; June 24, 1948, ch. 621, § 6 (a), 62 Stat. 601)

#### AMENDMENTS

1948—Subsec. (j) amended by act Feb. 28, 1948, which added "isonipacaine and its salts" to title 26".

Subsec. (l) amended by act June 16, 1948, which struck out "and" at end of subsection.

Subsec. (m) amended by act June 16, 1948, which struck out period at the end thereof and inserted "and", and amended by act June 24, 1948, which struck out "and".

Subsec. (n) added by act June 16, 1948, which defines "heart disease", and amended by act June 24, 1948, which struck out period at the end thereof and inserted "; and" in lieu hereof.

Subsec. (o) added by act June 24, 1948, to define "dental diseases and conditions".

1946—Subsecs. (l) and (m) added by act July 3, 1946.

#### SHORT TITLE OF ACT JULY 1, 1944

Congress in enacting this chapter, provided by section 1 of act July 1, 1944, as amended by section 4 of act Aug. 13, 1946, ch. 958, 60 Stat. 1049, that it should be known as the "Public Health Service Act".

#### SHORT TITLE OF ACT JULY 3, 1946

Section 1 of act July 3, 1946, provided that said act which is classified to sections 201, 209, 210, 215, 218, 219, 232, 241, 241a, 244 and 246 of this title should be popularly known as the "National Mental Health Act".

#### REPEALS

Section 711 of act July 1, 1944, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, repealed outright sections in this title and Titles 8, 14, 21, 24, 31, 33, 44, 48, and amended sections by repealing parts of said sections in Titles 8, 14, 24, 31, 34, 46, 48, 49.

#### SAVINGS CLAUSE

Section 714 of act July 1, 1944, as renumbered by acts Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1059, and Feb. 28, 1948, § 9 (b), provided "The repeal of the several statutes or parts of statutes accomplished by section 713 [act July 1, 1944, ch. 373, title VII, 58 Stat. 714] shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue, and may be enforced in the same manner, as if such repeal had not been made."

#### PURPOSE OF ACT JULY 3, 1946

Section 2 of act July 3, 1946, provided: "The purpose of sections 201, 208, 210, 215, 218, 219, 232, 241, 242a, 244, and 246 of this title is the improvement of the mental health of the people of the United States through the conducting of researches, investigations, experiments, and demonstrations relating to the cause, diagnosis, and treatment of psychiatric disorders; assisting and fostering such research activities by public and private agencies, and promoting the coordination of all such researches and activities and the useful application of their results; training personnel in matters relating to mental health; and developing, and assisting States in the use of, the most effective methods of prevention, diagnosis, and treatment of psychiatric disorders."

#### EXISTING POSITIONS, PROCEDURES, REGULATIONS, FUNDS, APPROPRIATIONS, AND PROPERTY

Sections 701—703 of act July 1, 1944, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, provided:

"SEC. 701. (a) The provisions of this Act [this chapter], shall not affect the term or tenure of office or employment of the Surgeon General, or of any officer or employee of the Service, or of any member of the National Advisory Health Council or the National Advisory Cancer Council, in office or employed at the time of its enactment.

"(b) Notwithstanding the provisions of this Act, existing positions, divisions, committees, and procedures in the Service shall continue unless and until abolished, changed, or transferred pursuant to authority granted in this Act [this chapter].

SEC. 702. Notwithstanding the provisions of this Act [this chapter], existing rules, regulations of or applicable to the Service, and Executive orders, shall remain in effect until repealed, or until modified or superseded by regulations made in accordance with the provisions of this Act [this chapter].

"SEC. 703. All appropriations, allocations, and other funds, and all properties available for use by the Public Health Service or any division or unit thereof shall continue to be available to the Service."

#### APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITATION ACTIVITIES

Section 704 of act July 1, 1944, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, provided: "For each fiscal year during the continuance of the present war and during any period of demobilization after the war, there is hereby authorized to be appropriated such sum as may be necessary to enable the Surgeon General, either directly or through State health authorities, to conduct health and sanitation activities in areas adjoining military or naval reservations within or without the United States, in areas where there are concentrations of military or naval forces, in Government and private industrial plants engaged in defense work, and in areas adjoining such industrial plants."

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of said section 704 of act July 1, 1944, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

#### § 202. Administration and supervision of Service.

The Public Health Service in the Federal Security Agency shall be administered by the Surgeon General under the supervision and direction of the Administrator. (July 1, 1944, ch. 373, title II, § 201, 58 Stat. 683.)

#### INTERNATIONAL HEALTH ADMINISTRATION

Ex. Ord. No. 10399, Sept. 29, 1952, 17 F. R. 8648, designated the Surgeon General to perform certain duties under the International Sanitary Regulations of the World Health Organization.

#### § 203. Organization of Service.

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no

divisions shall be consolidated, except with the approval of the Administrator. The National Institutes of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient. (July 1, 1944, ch. 373, title II, § 202, 58 Stat. 683; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

#### AMENDMENTS

1948—Act June 16, 1948, amended clause (2) of this section by substituting "National Institutes of Health" for "National Institute of Health".

#### § 204. Composition of commissioned corps; appointment of commissioned officers of Regular and Reserve Corps.

There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to the Classification Act of 1949. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps. (July 1, 1944, ch. 373, title II, § 203, 58 Stat. 683; Feb. 28, 1948, ch. 83, § 2, 62 Stat. 39; Oct. 28, 1949, ch. 782, title XI, § 1106 (a), 63 Stat. 972.)

#### REFERENCES IN TEXT

The civil-service laws and the Classification Act of 1949, referred to in the text of section, are classified to chapters 12 and 21, respectively, of Title 5, Executive Departments and Government Officers and Employees.

#### AMENDMENTS

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923, as amended".

1948—Act Feb. 28, 1948, amended section by striking out the last sentence which read "All active service in the Reserve Corps, as well as service in the Regular Corps, shall be credited for the purpose of promotion in the Regular Corps."

#### OSTEOPATHS AS RESERVE OFFICERS

Section 709 of act July 1, 1944, renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which provided for appointment of osteopaths as reserve officers until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

#### § 205. Appointment and tenure of office of Surgeon General; reversion in rank.

The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General. (July 1, 1944, ch. 373, title II, § 204, 58 Stat. 684.)

#### § 206. Assignment of officers as Deputy Surgeon General and Assistant Surgeons General; creation of temporary positions as Assistant Surgeons General.

(a) The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b) The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) The Surgeon General, with the approval of the Administrator, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 205 of this title and subsections (a) and (b) of this section, shall not on any day exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.

(d) The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General. (July 1, 1944, ch. 373, title II, § 205, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 3, 62 Stat. 39; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

#### AMENDMENTS

1948—Subsec. (b) amended by act June 16, 1948, which substituted "National Institutes of Health" for "National Institute of Health".

Subsec. (c) added by act Feb. 28, 1948.

Subsec. (d) formerly subsec. (c), redesignated subsec. (d) by act Feb. 28, 1948.

#### § 207. Grades, ranks, and titles of the commissioned corps; maximum number in grade for each fiscal year.

(a) The Surgeon General, during the period of his appointment as such, shall be of the same grade, with the same pay and allowances, as the Surgeon General of the Army; the Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with the grade of major gen-

eral, with the pay and allowances thereof; and the Chief Dental Officer, while assigned as such, shall have the grade, with the same pay and allowances, as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade, with the pay and allowances thereof, corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Administrator after considering the importance of the duties to be performed: *Provided*, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 206 of this title or pursuant to subsection (c) of section 206 of this title. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

- (1) Officers of the director grade—colonel;
- (2) Officers of the senior grade—lieutenant colonel;
- (3) Officers of the full grade—major;
- (4) Officers of the senior assistant grade—captain;
- (5) Officers of the assistant grade—first lieutenant; and
- (6) Officers of the junior assistant grade—second lieutenant.

(b) The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon, and (6) junior assistant surgeon. The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix "Reserve."

(c) Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

(d) Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Administrator shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps

for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this chapter) any officer to be separated from the Service or reduced in grade. (July 1, 1944, ch. 373, title II, § 206, 58 Stat. 684; Feb. 28, 1948, ch. 83, § 4, 62 Stat. 39; Oct. 31, 1951, ch. 653, 65 Stat. 700; July 17, 1952, ch. 931, 66 Stat. 758.)

#### AMENDMENTS

1952—Subsec. (a) amended by act July 17, 1952, to provide that the Chief Medical Officer of the Coast Guard should have the grade, pay, and allowances of a major general.

1951—Subsec. (a) amended by act Oct. 31, 1951, to provide equality of grade, pay, and allowances between the Chief Dental Officer and the comparable officer in the Army.

1948—Subsec. (a) amended by act Feb. 28, 1948, which increased grade of Deputy Surgeon General from brigadier general to major general and increased grade of certain Assistant Surgeons General from brigadier general to major general as the Administrator may determine.

Subsecs. (c) and (d) added by act Feb. 28, 1948.

§ 208. Repealed. Feb. 28, 1948, ch. 83, § 5 (a), 62 Stat. 40.

Section, act July 1, 1944, ch. 373, title II, § 207, 58 Stat. 685, related to establishment of special temporary provisions and is now covered in part by sections 206 (c) and 207 (c) of this title.

§ 209. Appointment of personnel—(a) Original appointments to Regular and Reserve Corps.

(1) Except as provided in subsection (b) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for a period of not more than five years and may be terminated at any time, as the President may direct.

(b) Grade and number of original appointments.

Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason

ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate. No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

**(c) Issuance of commissions.**

Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Administrator under the seal of the Federal Security Agency.

**(d) Date of appointment; credit for service.**

(1) For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of basic pay, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps and any person appointed under subsection (b) of this section, shall, in lieu of the credit provided in paragraph (1) of this subsection, be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1) of this subsection, plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

**(e) Special consultants.**

In accordance with regulations, special consultants may be employed to assist and advise in the

operations of the Service. Such consultants may be appointed without regard to the civil-service laws and their compensation may be fixed without regard to the Classification Act of 1949.

**(f) Designation for fellowships; duties; pay.**

In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws and compensated without regard to the Classification Act of 1949, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

**(g) Aliens.**

Persons who are not citizens may be employed as consultants pursuant to subsection (e) of this section and may be appointed to fellowships pursuant to subsection (f) of this section. Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

**(h) Civil service appointments by Administrator.**

The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Administrator, and may be made effective as of the date on which such officer or employee enters upon duty. (July 1, 1944, ch. 373, title II, § 208, 58 Stat. 685; July 3, 1946, ch. 538, § 4, 60 Stat. 421; Aug. 13, 1946, ch. 958, § 3, 60 Stat. 1049; renumbered § 207 and amended Feb. 28, 1948, ch. 83, § 5 (a—d), 62 Stat. 40; Oct. 12, 1949, ch. 681, title V, § 521 (a), 63 Stat. 834; Oct. 28, 1949, ch. 782, title XI, § 1106, 63 Stat. 972.)

**REFERENCES IN TEXT**

The Classification Act of 1949, referred to in text of subsections (e) and (f), is classified to chapter 21 of Title 5, Executive Departments and Government Officers and Employees.

**AMENDMENTS**

1949—Subsec. (d) amended by act Oct. 12, 1949, which substituted "base pay" for "pay and pay period" whenever appearing.

Subsecs. (e) and (f) amended by act Oct. 28, 1949 which substituted "Classification Act of 1949" for "Classification Act of 1923, as amended".

1948—Section amended by act Feb. 28, 1948, which redesignated section 208 of act July 1, 1944, to be section 207 of said act.

Subsec. (a) (1) amended by act Feb. 28, 1948, which struck out "surgery" following "several branches of medicine".

Subsec. (a) (2) amended by act Feb. 28, 1948, which omitted "any such commission" preceding "may be terminated", and "in his discretion" following "at any time".

Subsec. (b) amended by act Feb. 28, 1948, to provide for grade and number of original appointments.

Subsecs. (c) and (d) added by act Feb. 28, 1948.

Subsecs. (e)—(h), formerly subsecs. (c)—(f), renumbered by act Feb. 28, 1948.

Subsec. (g) amended by act Feb. 28, 1948, which changed reference in text from "subsection (c) of this section" to "subsection (e) of this section", and "subsection (d) of this section" to "subsection (g) of this section".



1946—Subsec. (b) (2) amended by act Aug. 13, 1946, which inserted "(A)" preceding "to assist", substituted "clause" for "paragraphs", and inserted clause (B).

Subsec. (b) amended by act July 3, 1946, which authorized the appointment of additional officers to grades above that of senior assistant but not above that of director, and limits the number so appointed to 20.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances.

#### § 209a. Appointment of regular commissioned nurses; grades; length of service for pay periods.

The number of regular commissioned nurses appointed shall be in addition to the number of regular active commissioned officers otherwise authorized, and not to exceed fifty regular commissioned nurses may be appointed in grades above that of senior assistant and for purposes of pay and pay period shall be considered as having had on the day of appointment service equal to that of the junior officer of the grade to which appointed. (Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 856.)

#### CODIFICATION

Section is from the First Supplemental Appropriation Act, 1945, act Dec. 22, 1944, and is not a part of the Public Health Service Act of 1944, which comprises this chapter.

#### § 209b. Appointment of additional commissioned officers; grades.

There shall be employed fifty additional regular commissioned officers, of which number twenty-four are authorized to be commissioned in the grades above that of senior assistant. (Dec. 22, 1944, ch. 660, title I, § 101, 58 Stat. 857.)

#### CODIFICATION

Section is from the First Supplemental Appropriation Act, 1945, act Dec. 22, 1944, and is not a part of the Public Health Service Act of 1944, which comprises this chapter.

#### § 209c. Same; length of service for pay purposes.

For the purposes of pay and pay period the officers appointed to grades above that of senior assistant pursuant to section 209b of this title shall be considered as having had on the date of appointment service equal to that of the junior officer of the grade to which appointed. (July 3, 1945, ch. 263, title II, 59 Stat. 370.)

#### CODIFICATION

Section is from the Federal Security Appropriation Act of 1945, act July 3, 1945, and is not a part of the Public Health Service Act of 1944, which comprises this chapter.

#### § 209d. Appointment of osteopaths as commissioned officers.

Graduates of colleges of osteopathy whose graduates are eligible for licensure to practice medicine or osteopathy in a majority of the States of the United States, or approved by a body or bodies acceptable to the Administrator, shall be eligible, subject to the other provisions of this chapter, for appointment as commissioned medical officers in the Public Health Service. (Feb. 28, 1948, ch. 83, § 5 (b), 62 Stat. 40.)

#### CODIFICATION

This section was not enacted as a part of the Public Health Service Act which comprises this chapter.

#### § 210. Pay and allowances—(a) Commissioned officers of Regular and Reserve Corps.

Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

#### (b) Allotments; purchase of quartermaster supplies.

In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may make allotments from their pay. Such officers shall also be permitted to purchase quartermaster supplies from the Army, Navy, and Marine Corps at the same price as is charged officers of the Army, Navy, and Marine Corps.

#### (c) Members of National Advisory Councils.

Members of the National Advisory Health Council and members of other national advisory councils established under this chapter, other than ex officio members, while attending conferences or meetings of their respective councils or while otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding \$50 per diem, and shall also be entitled to receive an allowance for actual and necessary traveling and subsistence expenses while so serving away from their places of residence.

#### (d) Field employees.

Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

#### (e) Additional pay for leprosy detail.

Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds requires intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.

#### (f) Allowances included in fellowships.

Individuals appointed under section 209 (f) of this title shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.

#### (g) Positions in professional and scientific service; compensation; appointment.

The Administrator is authorized to establish and fix the compensation for, within the Public Health Service, not more than thirty positions, in the professional and scientific service, each such position being established to effectuate those research and

development activities of the Public Health Service which require the services of specially qualified scientific or professional personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than \$10,000 per annum nor more than \$15,000 per annum, and shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose. (July 1, 1944, ch. 373, title II, § 209, 58 Stat. 686; July 3, 1946, ch. 538, § 5 (a), 60 Stat. 422; renumbered § 209 and amended Feb. 28, 1948, ch. 83, § 5 (a, g, h), 62 Stat. 40; June 16, 1948, ch. 431, § 4 (d), 62 Stat. 467; June 24, 1948, ch. 621, § 4 (d), 62 Stat. 601; Oct. 12, 1949, ch. 681, title V, § 521 (b), 63 Stat. 834; Aug. 9, 1950, ch. 654, § 1, 64 Stat. 426; Aug. 15, 1950, ch. 7, §§ 3 (e), 4 (b), 64 Stat. 447.)

#### AMENDMENTS

1950—Subsec. (a) amended by act Aug. 9, 1950, which struck out of the first sentence the words "and may be granted leaves of absence without any deduction from their pay", following "allowances".

Subsec. (c) amended by act Aug. 15, 1950, § 3 (e), to make it applicable to members of all national advisory councils.

Subsec. (g) added by act Aug. 15, 1950, § 4 (b).

1949—Subsec. (a) amended by act Oct. 12, 1949, to make section applicable to Reserve officers.

Subsec. (b), formerly subsec. (c), renumbered by act Oct. 12, 1949, which repealed former subsec. (b) relating to reserve officers.

Subsec. (c), formerly subsec. (e), renumbered by act Oct. 12, 1949.

Subsec. (d), formerly subsec. (f), renumbered by act Oct. 12, 1949, which repealed former subsec. (d) relating to female commissioned officers and a definition of "dependent".

Subsec. (e), formerly subsec. (g), renumbered by act Oct. 12, 1949, and amended to omit references to allowances.

Subsec. (f), formerly subsec. (h), renumbered by act Oct. 12, 1949.

1948—Section amended by act Feb. 28, 1948, which redesignated section 209 of act July 1, 1944, to be section 208 of said act.

Subsec. (b) amended by act Feb. 28, 1948, which inserted "except as otherwise provided by law".

Subsec. (e) amended by acts June 16, 1948, § 4 (d) and June 24, 1948, § 4 (d), to make this section applicable to the National Advisory Heart Council and to increase the per diem of all members from \$25 to \$50, and to make section applicable to the National Advisory Dental Research Council, respectively.

Subsec. (h) amended by act Feb. 28, 1948, which changed reference from "section 209 (d) of this title" to "section 209 (f) of this title".

1946—Subsec. (e) amended by act July 3, 1946, which added "members of the National Advisory Mental Health Council."

#### EFFECTIVE DATE OF 1950 AMENDMENT

Section 3 (a) of act Aug. 9, 1950, provided that the amendment of this section and the enactment of section 210-1 of this title should become effective as of July 1, 1950.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances.

#### CROSS REFERENCES

Pay and allowances of officers of Public Health Service, see chapter 4 of Title 37, Pay and Allowances.

#### § 210-1. Annual and sick leave.

(a) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided*, That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b) When an officer described in subsection (a) of this section is absent without leave, he shall forfeit all pay and allowances during such absence, unless such absence is excused as unavoidable.

(c) Except in cases of emergency, no annual leave shall be granted to an officer described in subsection (a) of this section between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and the effective date of such retirement, separation, or release from active duty. If such officer is credited with unused accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, he shall, in the event that his application for such leave is approved by the Surgeon General, be compensated for such leave in a lump-sum payment on the basis of his basic pay, his allowance for subsistence, and the allowance for rental of quarters whether or not he is receiving such allowance on such date: *Provided*, That the number of days upon which such lump-sum payment may be computed shall not exceed sixty days: *Provided further*, That no lump-sum payment shall be made for such unused leave to an officer whose commission expires or is terminated but who, without a break in active service, accepts a new commission, or to an officer who is retired for age in time of war but who is continued on or recalled to active duty without a break in active service, or to an officer who is transferred to another department or agency of the Government under circumstances where, by other provision or law, such leave is transferable.

(d) For purposes of this section the term "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year. (July 1, 1944, ch. 373, title II, § 219, as added Aug. 9, 1950, ch. 654, § 2, 64 Stat. 426.)

#### EFFECTIVE DATE

Section effective as of July 1, 1950, see note set out under section 210 of this title.

COMPENSATION FOR PRIOR ACCUMULATED AND ACCRUED LEAVE; LIMITATION; INAPPLICABLE TO OFFICERS ON TERMINAL LEAVE PRIOR TO JULY 1, 1950

Subsections (b) and (c) of section 3 of act Aug. 9, 1950, provided that:

"Any officer who, on June 30, 1949, was credited with more than sixty days of accumulated and accrued leave, shall be compensated for so much of such leave as exceeds sixty days but does not exceed one hundred and twenty days, in a lump-sum payment on the basis of the

base and longevity pay, the allowance for subsistence, and the allowance for rental of quarters (whether or not he was receiving such allowance on such date), which were applicable to him on such date under provisions of law then in effect: *Provided*, That there shall be deducted from the number of days upon which such lump-sum payment is otherwise authorized to be computed the number of days of leave in excess of thirty days taken during the period from July 1, 1949, to June 30, 1950. Payments authorized pursuant to this subsection shall be due and payable on July 1, 1950. All amounts received pursuant to this subsection shall be exempt from taxation.

"The provisions of this Act [sections 210 (b) and 210-1 and notes thereunder of this title] shall not be applicable to an officer who has, prior to July 1, 1950, been placed on terminal leave preceding separation, retirement, or release from active duty."

#### AVAILABILITY OF FUNDS

Section 4 of act Aug. 9, 1950, provided that: "Funds appropriated by the Act of August 8, 1946 (ch. 870, 60 Stat. 910), to enable the President to carry out the provisions of the Armed Forces Leave Act of 1946 [sections 31a-33 and 34-38 of Title 37], are hereby made available for carrying out the provisions of section 3 of this Act [set out as a note under this section] and may be allotted to the Public Health Service by transfer to and merger with appropriations thereof or otherwise, in such amounts as may be determined by the Director of the Bureau of the Budget."

#### LEAVE REGULATIONS

Section 5 of act Aug. 9, 1950, provided that: "Except insofar as the provisions of this Act [sections 210 (b) and 210-1 and notes thereunder of this title] are inconsistent therewith, leave regulations adopted prior to the enactment of this Act [Aug. 9, 1950], pursuant to the Public Health Service Act [this chapter], shall remain in effect until repealed, amended, or superseded."

#### § 210a. Pay and allowances; service credit for commissioned officers on active duty February 28, 1948; service credit for pay and promotion purposes of certain appointees during period February 28, 1948, to July 1, 1948.

Beginning as of February 28, 1948, any officer in the Regular Corps of the Public Health Service on active duty on such date shall, in lieu of the service with which he was credited for the purposes of pay and pay period at the time of his appointment to such corps, receive credit, if it is greater, for three years if his appointment was to the senior assistant grade, twelve years if it was to the full grade, twenty years if it was to the senior grade, and twenty-six years if it was to the director grade.

Any person appointed to any grade above the assistant grade in the Regular Corps of the Public Health Service after February 28, 1948, and prior to July 1, 1948, shall, for purposes of pay and pay period, and (except in the case of an appointment to the director grade) for purposes of promotion, receive the credit provided under section 209 of this title, or shall receive credit, if it is greater, of three years if appointed to the senior assistant grade, twelve years if appointed to the full grade, twenty years if appointed to the senior grade, and twenty-six years if appointed to the director grade. In the case of an officer so appointed to the full or senior grade (1) he shall receive two years' seniority in grade if appointed to the full grade and three years' if appointed to the senior grade, and (2) he

shall be considered as having completed the one year of service in grade required for promotion to a restricted grade or to the director grade, as the case may be. (Feb. 28, 1948, ch. 83, § 5 (e, f), 62 Stat. 41.)

#### CODIFICATION

Section is composed of subsecs. (e) and (f) of section 5 of act Feb. 28, 1948, and was not enacted as a part of the Public Health Service Act which comprises this section.

#### § 210b. Professional categories—(a) Division of corps; basis of categories.

For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 209 (a) (1) of this title or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

#### (b) Assignment of officers.

Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulation under subsection (a) of this section. Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

#### (c) Maximum number of officers in each category.

Within the limits fixed by the Administrator in regulations under section 207 (d) of this title for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

#### (d) Vacancies in grade for purposes of promotion.

The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including, in the case of the director grade, officers holding such grade in accordance with section 207 (c) of this title) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 207 (c) of this title shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 206 (c) of this title, the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

**(e) Absence of vacancy in grade as affecting promotion.**

The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 209 of this title, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

**(f) Vacancy in grade as affecting maximum number for each category.**

Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) of this section for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 207 (d) of this title; and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one. (July 1, 1944, ch. 373, title II, § 209, as added Feb. 28, 1948, ch. 83, § 5 (i), 62 Stat. 41.)

**§ 211. Promotion of commissioned officers—(a) Permanent or temporary promotions; examination.**

Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

**(b) Promotion to certain grades only to fill vacancies; regulations; definition of "restricted grade".**

The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade."

**(c) Examinations.**

Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies

in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

**(d) Permanent promotions to qualified officers on length of service.**

Officers of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b) of this section) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and pay period and for purposes of seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

**(e) Promotion of professional category officers to fill certain vacancies.**

Officers in a professional category of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

**(f) Reexamination upon failure of promotion; effective date of promotion.**

If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) of this section fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e) of this section), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

**(g) Separation from service upon failure of promotion.**

If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) of this section not to be qualified for promotion he shall be separated from the Service. If, for reasons other

than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) If in the assistant grade he shall be separated from the Service and paid six months' pay and allowances;

(2) If in the senior assistant grade he shall be separated from the Service and paid one year's pay and allowances;

(3) If in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of 2½ per centum of his active duty pay at the time of retirement for each complete year, not in excess of thirty, of his active commissioned service in the Service.

**(h) Separation from service upon refusal to stand examination.**

If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

**(i) Review of record; separation from service.**

At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

**(j) Determination of order of seniority.**

(1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2) of this subsection, by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade

of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

**(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment.**

Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

**(l) Determination of requirements of Service by Administrator; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions.**

Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Administrator shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Administrator finds that the number of officers fixed under subsection (c) of this section for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under subsection (c) of this section) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

**(m) Acceptance of promotion; oath and affidavit.**

Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by section 21a of Title 5. (July 1,

1944, ch. 373, title II, § 210, 58 Stat. 687; Feb. 28, 1948, ch. 83, § 6 (a), 62 Stat. 42; Oct. 12, 1949, ch. 681, title V, § 521 (c), 63 Stat. 235.)

#### AMENDMENTS

1949—Subsec. (g) amended by act Oct. 12, 1949, which struck out "incurred in line of duty" wherever appearing.

1948—Act Feb. 28, 1948, amended subsecs. (a)—(c) generally, and added subsecs. (d)—(m).

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances.

#### CROSS REFERENCES

Promotion of persons recalled to active duty as physicians or dentists who served as such subsequent to Sept. 16, 1940, see section 454a of Appendix to Title 53, War and National Defense.

#### § 211a. Appointment to higher grades for mental health and hospital construction activities.

Twenty officers may be appointed to grades in the Regular Corps of the Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of this chapter with respect to mental health and twenty officers may be appointed to such grades in the Regular Corps to assist in carrying out subchapter IV of this chapter. Officers appointed pursuant to this section in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 209 (b) of this title, but they shall for all other purposes be treated as though appointed pursuant to such section 209 (b) of this title. The twenty officers authorized by this section to be appointed to carry out the purposes of this chapter with respect to mental health and the twenty officers so authorized to be appointed to carry out subchapter IV of this chapter shall be reduced by the number of officers appointed under clause (A) and the number appointed under clause (B), respectively, of section 208 (b) (2) of this title, in effect prior to February 28, 1948. (July 1, 1944, ch. 373, title VII, § 711, as added Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

#### § 211b. Promotion of commissioned officers.—Temporary promotions prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, no promotion shall be made under section 211 of this title, prior to July 1, 1948. Until that date officers of the Regular Corps may receive temporary promotions to higher grades with the pay and allowances thereof pursuant to section 211 (a) (1) of this title, in force prior to February 28, 1948, notwithstanding the termination, prior to such date, of the war and of the national emergencies proclaimed by the President. Any officer holding, on June 30, 1948, an appointment pursuant to such section to a higher temporary grade shall continue in such grade until such appointment is terminated, as the President may direct.

#### Service credit.

Effective as of February 28, 1948, each officer of the Regular Corps on such date, in addition to the

credit he has under preexisting legislation for purposes of promotion, shall be credited with three years of service.

#### Promotion based on years of service; effective date; examination; service credit.

Officers of the Regular Corps who have, or who on or before July 1, 1948, will have, the years of service prescribed in paragraph (2) of section 211 (d) of this title, for promotion to the senior assistant, full, or senior grade, shall be recommended to the President for such promotion, to be effective as of July 1, 1948, whether or not vacancies exist in such grade. Such promotions shall be made without examination, except that no promotions shall be made to the senior grade or any grade immediately below a restricted grade until the officer is found qualified for promotion pursuant to subsection (c) of section 211 of this title.

No promotion shall be made pursuant to this paragraph to any grade in any professional category if such grade has been made a restricted grade pursuant to subsection (b) of section 211 of this title. For purposes of seniority an officer promoted under this paragraph shall be credited with the years of service in the grade to which promoted equal to the excess of his years of service on the date of promotion over the years of service required for promotion to such grade under paragraph (2) of section 211 (d) of this title.

Officers in the junior assistant grade in the Regular Corps who have, or who on or before July 1, 1948, will have four or more years of service in the junior assistant grade, shall be recommended to the President for promotion to the assistant grade, to be effective as of July 1, 1948, without examination and whether or not vacancies exist in such grade. For purposes of promotion and seniority in grade, an officer promoted under this paragraph shall be credited with the years of service equal to the excess of his years of service on the date of promotion over four years.

#### Service for purpose of seniority.

For purposes of seniority, any officer of the Regular Corps of the Public Health Service on February 28, 1948, shall be considered as having had service in the grade which he holds on such date equal to the excess of the service credited to him for promotion purposes over the length of service required under section 211 (d) (2) of this title, for promotion to such grade.

#### Term or tenure of office unaffected prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, the provisions of this section shall not, prior to July 1, 1948, affect the term or tenure of office (including any office held under temporary promotion) of any commissioned officer of the Service in office upon February 28, 1948. (Feb. 28, 1948, ch. 83, § 6 (b—f), 62 Stat. 45.)

#### CODIFICATION

Section is composed of subsecs. (b)—(f) of section 6 of act Feb. 28, 1948, and was not enacted as a part of the Public Health Service Act which comprises this chapter.

**§ 212. Retirement of commissioned officers—(a) Age; length of service.**

A commissioned officer shall be retired on the first day of the month following the month in which he attains the age of sixty-four years; and a commissioned officer may be retired by the Administrator, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active commissioned service in the Service. If he is an officer in the Regular Corps, he shall, except as provided in subsection (b) of this section, be entitled to receive retired pay at the rate of 75 per centum of his active pay at the time of retirement.

**(b) Certain commissioned officers; Surgeon General; Deputy Surgeon General, and Assistant Surgeon General.**

(1) Any commissioned officer of the Regular Corps who at the time of his original appointment was more than forty-five years of age shall upon his retirement for age pursuant to subsection (a) of this section be entitled to retired pay at the rate of 4 per centum of his active pay at the time of such retirement for each twelve months of active commissioned service, including any such service in the Army, Navy, or Coast Guard, but in no case more than 75 per centum of such active pay.

(2) The retired pay of an officer, who is retired pursuant to subsection (a) of this section or pursuant to paragraph (1) of this subsection and who has served four years or more as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General, shall be based on the pay of the highest grade held by him as such Surgeon General, Deputy Surgeon General, or Assistant Surgeon General.

**(c) Recall to active duty.**

In time of war, a commissioned officer who has been retired under the provisions of subsection (a) of this section may, in accordance with regulations of the President, be recalled to active duty.

**(d) Voluntary retirement of Surgeon General.**

With the approval of the President a commissioned officer who has served four years or more as Surgeon General, and who has had not less than twenty-five years of active commissioned service in the Service may retire voluntarily, either at the termination of his term as Surgeon General or at any time thereafter; and his retired pay shall be at the rate of 75 per centum of the pay of the highest grade held by him as such Surgeon General.

**(e) Reserve officers as officers of executive branch of Government.**

Commissioned officers of the Reserve Corps, while on active duty, shall be deemed to be officers of the executive branch of the Government within the meaning of section 693 of Title 5.

**(f) Officers in senior assistant grade and full grade.**

An officer of the Regular Corps in the senior assistant grade in a category in which the full grade is a restricted grade, who has had twenty years of active commissioned or noncommissioned service in the Service (including any active Federal service in the armed forces) or has attained the age of fifty, or

an officer of the Regular Corps in the full grade in a category in which the senior grade is a restricted grade, who has had twenty-five years of such service or has attained the age of fifty-five, may be retired in accordance with regulations of the Administrator if he has not been found pursuant to section 211 (c) of this title to be qualified for promotion to the full grade or the senior grade, as the case may be. The retired pay of any such officer shall be at the rate of 2½ per centum of his active-duty pay at the time of retirement for each complete year, not in excess of thirty, of such service.

**(g) Retirement or severance for physical disability; pay.**

A commissioned officer shall be retired or separated from the Service for physical disability depending upon his eligibility for such retirement or separation under other provisions of law and be paid such retirement or such severance pay to which he may be entitled under such other provisions of law. (July 1, 1944, ch. 373, title II, § 211, 58 Stat. 688; Feb. 28, 1948, ch. 83, § 7, 62 Stat. 46; Oct. 12, 1949, ch. 681, title V, § 521 (d), 63 Stat. 835.)

**AMENDMENTS**

1949—Subsec. (a), formerly subsec. (b), renumbered by act Oct. 12, 1949, which repealed former subsec. (a) relating to retirement for disability or disease, and reference in text to "subsection (c) of this section" was changed to read "subsection (b) of this section".

Subsec. (b), formerly subsec. (c), renumbered by act Oct. 12, 1949, and amended to omit reference to retirement for disability or disease.

Subsec. (c), formerly (d), renumbered by act Oct. 12, 1949, and amended to omit reference to recovery from a disability.

Subsecs. (d—f), formerly subsecs. (e—g), renumbered by act Oct. 12, 1949.

Subsec. (g), formerly subsec. (h), renumbered by act Oct. 12, 1949, and amended generally to relate retirement or severance for physical disability.

1948—Subsec. (b) amended by act Feb. 28, 1948, which added length of service for retirement purposes.

Subsec. (c) (2) amended by act Feb. 28, 1948, which made subdivision applicable to the grade of Assistant Surgeon General.

Subsec. (d) amended by act Feb. 28, 1948, which substituted "under the provisions of subsection (b) of this section" for "for age".

Subsecs. (g) and (h) added by act Feb. 28, 1948.

**EFFECTIVE DATE OF 1949 AMENDMENT**

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances.

**REPEAL OF PRIOR ACTS CONTINUING SUBSECTION (c)**

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

**TRANSFER OF FUNCTIONS**

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive



Departments and Government Officers and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

**§ 212a. Same; certain retirements for disability.**

An officer of the Reserve Corps of the Public Health Service who was separated from the Service or returned to inactive status by reason of a disability incurred in line of duty after December 6, 1941, and prior to July 1, 1944, and who would have been eligible for retirement by reason of such disability if section 212 of this title had been in effect on and after December 7, 1941, shall be considered as though he had been retired at the time of such separation or return to inactive service. Any such officer, and any other officer of the Reserve Corps retired for a disability which was incurred in line of duty after December 6, 1941, and prior to July 1, 1944, shall be entitled, for periods both before and after the date of the enactment of this section, to the same retired pay to which he would have been entitled if section 212 of this title had been in effect on and after December 7, 1941. (July 1, 1944, ch. 373, title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

**§ 213. Military benefits; definitions; officers entitled to benefits; authority of Surgeon General; award of decorations.**

(a) For the purposes of this section—

(1) the term "full military benefits" means all rights, privileges, immunities, and benefits provided under any law of the United States in the case of commissioned officers of the Army (including their surviving beneficiaries) on account of active military service, including, but not limited to, burial payments in the event of death, six months' pay in case of death, veterans' compensation and pensions and other veterans' benefits, the rights provided under the Soldiers' and Sailors' Civil Relief Act of 1940, and under the National Service Life Insurance Act of 1940, travel allowances, including per diem allowances for travel without regard to repeated travel between two or more places in the same vicinity, exemption from payment of postage on mail, exemption of certain pay from Federal income taxation, and other benefits, privileges and exceptions under the Internal Revenue laws; excluding, however, retired pay, uniform allowances, the right to be awarded military ribbons, medals, and decorations, and the benefits of the Mustering-Out Payment Act of 1944, and excluding reemployment rights with respect to any commissioned officer of the Service except officers of the Reserve Corps called to active duty after November 11, 1943; and

(2) the term "limited military benefits" means full military benefits, except veterans' compensation and pensions and other veterans' benefits, and eligibility under the National Service Life Insurance Act of 1940.

(b) Commissioned officers of the Service (including their surviving beneficiaries)—

(1) shall be entitled to limited military benefits with respect to all active service in time of war;

(2) shall be entitled to full military benefits with respect to active service performed while detailed for duty with the Army, Navy, or Coast Guard;

(3) shall be entitled to full military benefits with respect to active service outside the continental limits of the United States, or in Alaska, in time of war;

(4) shall be entitled to full military benefits with respect to active service performed while the Service is part of the military forces of the United States pursuant to executive order of the President.

(c) The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General under the supervision and direction of the Administrator.

(d) The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations. (July 1, 1944, ch. 373, title II, § 212, 58 Stat. 689; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

**REPEAL OF PRIOR ACTS CONTINUING SUBSECTION (c)**

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

**REFERENCES IN TEXT**

The Soldiers' and Sailors' Civil Relief Act of 1940, referred to in the text, is classified to sections 501-590 of Appendix to Title 50, War and National Defense.

The National Life Insurance Act of 1940, referred to in the text, is classified to subchapter I of chapter 13 of Title 38, Pensions, Bonuses, and Veterans' Relief.

The Internal Revenue Laws, referred to in the text, are classified to section 1 et seq. of Title 26, Internal Revenue Code.

The Mustering-Out Payment Act of 1944, referred to in the text, is classified to chapter 11B of Title 38, Pensions, Bonuses, and Veterans' Relief.

**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

**TRANSFER OF FUNCTIONS**

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.



**§ 214. Allowances for uniforms.**

An allowance of \$250 for uniforms and equipment is authorized to be paid to each commissioned officer of the Service who is hereafter, in time of war, appointed to the Regular Corps or called to active duty in the Reserve Corps, or who is hereafter on active duty in either corps at the commencement of any war, if at such time the officer is in the grade of junior assistant, assistant, or senior assistant, and is receiving the pay of the first, second, or third pay period; except that no officer who has received such an allowance from the Service shall at any time thereafter be entitled to any further allowance. (July 1, 1944, ch. 373, title II, § 213, 58 Stat. 689.)

**REPEAL OF PRIOR ACTS CONTINUING SECTION**

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

**UNIFORM ALLOWANCES TO CERTAIN COMMISSIONED OFFICERS**

Section 707 of act July 1, 1944, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, provided: "Each commissioned officer of the Service who was appointed to the Regular Corps or called to active duty in the Reserve Corps since December 7, 1941, and prior to the enactment of this Act [July 1, 1944], and who on or after November 11, 1943, was on active duty in the grade of junior assistant, assistant, or passed assistant and was receiving the pay of the first, second, or third pay period, shall be entitled to receive an allowance of \$250 for uniforms and equipment."

**§ 215. Detail of personnel to governmental departments, States and subdivisions, and certain institutions; payment of salaries and allowances.**

(a) The Administrator is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Administrator and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriations and reimbursement may be made as agreed upon by the Administrator and the head of the executive department concerned. Officers detailed for duty with the Army, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or a political subdivision thereof in work related to the functions of the Service.

(c) The Surgeon General may detail personnel of the Service to nonprofit educational, research, or other institutions engaged in health activities

for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Personnel detailed under subsections (b) and (c) of this section shall be paid from applicable appropriations of the Service, except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 213 of this title. (July 1, 1944, ch. 373, title II, § 214, 58 Stat. 690; July 3, 1946, ch. 538, § 6, 60 Stat. 423; Oct. 12, 1949, ch. 681, title V, § 521 (e), 63 Stat. 835.)

**AMENDMENTS**

1949—Subsec. (d) amended by act Oct. 14, 1949, which substituted "the computation of basic pay" for "longevity pay".

1946—Subsec. (b) amended by act July 3, 1946, to provide for the detail of personnel where a request comes from the State mental health authority.

**EFFECTIVE DATE OF 1949 AMENDMENT**

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances.

**TRANSFER OF FUNCTIONS**

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

**§ 216. Regulations for Service by President and Surgeon General.**

(a) The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, titles, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.

(b) The Surgeon General, with the approval of the Administrator, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) No regulation relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine. (July 1, 1944, ch. 373, title II, § 215, 58 Stat. 690; Oct. 12, 1949, ch. 681, title V, § 521 (f), 63 Stat. 835.)

## AMENDMENTS

1949—Subsec. (b) amended by act Oct. 12, 1949, which deleted references to travel and transportation of household goods and effects.

## EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances.

## § 217. Use of Service in emergency.

In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest, and in time of war he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such part thereof as the President shall prescribe, the commissioned corps (1) shall constitute a branch of the land and naval forces of the United States, and (2) to the extent prescribed by regulations of the President, shall be subject to the Articles of War and to the Articles for the Government of the Navy: *Provided*, That during such period or part thereof the commissioned corps shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief. (July 1, 1944, ch. 373, title II, § 216, 58 Stat. 690.)

## REFERENCES IN TEXT

Articles of War and Articles for the Government of the Navy, referred to in the text, which were formerly classified to sections 1471—1593 of Title 10, Army and Air Force, and following section 1200 of Title 34, Navy, respectively, were repealed by act May 5, 1950, ch. 189, § 14, 64 Stat. 147, and are now covered by the Uniform Code of Military Justice, which is classified to chapter 22 of Title 50, War and National Defense.

## REPEAL OF PRIOR ACT, CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, ch. 570, 66 Stat. 334, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

## CROSS REFERENCES

Personnel of Public Health Service serving with armed forces as subject to Uniform Code of Military Justice, see section 552 (8) of Title 50, War and National Defense.

## EXECUTIVE ORDERS

Ex. Ord. 9575, June 28, 1945, 10 F. R. 7895, formerly set out as a note under this section, was superseded by Ex. Ord. No. 10349, Apr. 28, 1952, 17 F. R. 3769.

Ex. Ord. No. 10349, April 28, 1952, 17 F. R. 3769, which superseded Ex. Ord. No. 9575, June 28, 1945, 10 F. R. 7895, formerly set out as a note under this section, subjected the Commissioned Corps of the Public Health Service to the provisions of the Uniform Code of Military Justice, 50 U. S. C. §§ 551—741 until June 1, 1952.

Ex. Ord. No. 10349 was amended by Ex. Ord. 10356, June 2, 1952, 17 F. R. 4367, which extended from June 1, 1952 to June 15, 1952 the period during which the Commissioned Corps of the Public Health Service is subject to the provisions of the Uniform Code of Military Justice, 50 U. S. C. §§ 551—741.

Ex. Ord. No. 10356, June 2, 1952, 17 F. R. 4967, was amended by Ex. Ord. 10362, June 14, 1952, 17 F. R. 5413, which extended from June 15, 1952 to June 30, 1952 the period during which the Commissioned Corps of the Public Health Service is subject to the provisions of the Uniform Code of Military Justice, 50 U. S. C. §§ 551—741.

Ex. Ord. No. 10362, June 14, 1952, 17 F. R. 5413, was amended by Ex. Ord. 10367, June 30, 1952, 17 F. R. 5929, which extended from June 30, 1952 to July 3, 1952 the period during which the Commissioned Corps of the Public Health Service is subject to the provisions of the Uniform Code of Military Justice, 50 U. S. C. §§ 551—741.

## § 218. National Advisory Councils; composition; qualifications; appointment and tenure; duties.

(a) The National Advisory Health Council, the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Heart Council, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Administrator. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of cancer, psychiatric disorders, heart diseases, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, and three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils established under this chapter on cancer, mental health, heart, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service,

for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommend to the Surgeon General, for prosecution under this chapter, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Surgeon General, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Surgeon General, for acceptance pursuant to section 219 of this title, conditional gifts for work in the field of mental health; and the Surgeon General shall recommend acceptance of any such gifts only after consultation with the Council.

(d) Repealed. Aug. 15, 1950, ch. 714, § 3 (c), 64 Stat. 446.

(e) Relettered (c). Aug. 15, 1950, ch. 714, § 3 (c), 64 Stat. 446.

(f, g) Repealed. Aug. 15, 1950, ch. 714, § 3 (c), 64 Stat. 446.

(July 1, 1944, ch. 373, title II, § 217, 58 Stat. 691; July 3, 1946, ch. 538, § 5 (b—d), 60 Stat. 422; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 16, 1948, ch. 481, §§ 4 (a—c), 6 (b), 62 Stat. 467, 469; June 24, 1948, ch. 621, § 4 (a—c), 62 Stat. 600; Aug. 15, 1950, ch. 714, § 3 (a—d), 64 Stat. 446.)

#### AMENDMENTS

1950—Catchline amended by act Aug. 15, 1950, § 3 (d), to reflect addition of new advisory councils.

Subsec. (a) amended by act Aug. 15, 1950, § 3 (a), to apply to all of the advisory councils with regard to composition, qualifications, and appointment and tenure of members.

Subsec. (b) amended by act Aug. 15, 1950, § 3 (b), which made subsection also applicable to new advisory councils.

Subsec. (c) formerly subsec. (e), renumbered by act Aug. 15, 1950, § 3 (c).

Former subsec. (c) and subsecs. (d, f, and g) repealed by act Aug. 15, 1950, § 3 (c).

1948—Catchline amended by acts June 16, 1948, § 4 (c), and June 24, 1948, § 4 (c), to include the National Advisory Heart and Dental Research Councils, respectively.

Subsec. (a) amended by act June 16, 1948, § 6 (b), which substituted "National Institutes of Health" for "National Institute of Health" in second sentence.

Subsec. (b) amended by acts June 16, 1948, § 4 (b), and June 24, 1948, § 4 (b), to make it applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (f) added by act June 16, 1948, § 4 (a), which established the National Advisory Heart Council.

Subsec. (g) added by act June 24, 1948, § 4 (a), which established the National Advisory Dental Research Council.

1946—Catchline amended by act July 3, 1946, which inserted "Mental Health".

Subsec. (b) amended by act July 3, 1946, which inserted "or of the National Advisory Mental Health Council".

Subsecs. (d) and (e) added by act July 3, 1946.

#### EFFECTIVE DATE OF 1950 AMENDMENT

Subsecs. (a) and (c) of section 3 of act Aug. 15, 1950, provided in part that the amendment of this section and the repeal of former subsecs. (c, d, f, g) should be effective Oct. 1, 1950.

#### CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

#### TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

#### EXPIRATION OF TERMS OF OFFICE ON SEPT. 30, 1950

Section 3 (c) of act Aug. 15, 1950, provided in part that: "Terms of office as members of national advisory councils pursuant to such section [this section] subsisting on September 30, 1950, shall expire at the close of business on such day."

#### § 218a. Training of officers; availability of appropriations for pay and allowances, tuition, fees, and expenses; reimbursement by officer upon voluntary separation.

(a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty in the Regular Corps while attending any educational institution and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees while attending an educational institution are paid pursuant to subsection (a) of this section shall be obligated to reimburse the Service for such tuition and fees if he voluntarily leaves the Service within two years after the cessation of such attendance. (July 1, 1944, ch. 373, title II, § 218, as added Feb. 28, 1948, ch. 83, § 8, 62 Stat. 47.)

#### § 219. Acceptance and disposition of gifts; establishment of memorials.

(a) The Administrator is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or (d) of this section) of any other property so accepted, and

the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Administrator, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) The Administrator shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Administrator for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Administrator, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

(e) Donations of \$50,000 or over in aid of research may be acknowledged by the establishment of suitable memorials to the donors, within the National Institutes of Health or, where appropriate, within the National Institute of Mental Health. (July 1, 1944, ch. 373, title V, § 501, 58 Stat. 709; July 3, 1946, ch. 538, § 10, 60 Stat. 425; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

#### AMENDMENTS

1948—Subsec. (e) amended by act June 16, 1948, which substituted "National Institutes of Health" for "National Institute of Health."

1946—Subsec. (e) amended by act July 3, 1946, to make it applicable to the National Institute of Mental Health.

#### CROSS REFERENCES

National Institutes of Health gift fund and conditional gift fund to be classified on books of Treasury as trust funds, see section 725a (a) (33, 34) of Title 31, Money and Finance.

#### § 220. Use of immigration station hospitals.

The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 249 (a) of this title. (July 1, 1944, ch. 373, title V, § 502, 58 Stat. 710.)

#### TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 21, 1950, 15 F. R. 3173, 64 Stat. 1261, set out as a note under section 291 of Title 5, Executive Departments and Government Officers and Employees. The Immigration and Naturalization Service referred to in this section, is a bureau in the Department of Justice.

#### § 221. Disposition of money collected for care of patients.

Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid. (July 1, 1944, ch. 373, title V, § 503, 58 Stat. 710.)

#### § 222. Care of Service patients at Saint Elizabeths Hospital.

Insane patients entitled to treatment by the Service shall be admitted, upon order of the Administrator, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service inci-

dent to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service. (July 1, 1944, ch. 373, title V, § 501, 58 Stat. 710; June 25, 1948, ch. 654, § 6, 62 Stat. 1018.)

#### AMENDMENTS

1948—Act June 25, 1948, amended section to permit the payment of court costs and other expenses of the Service incident to commitment of mental patients.

#### SAINT ELIZABETHS HOSPITAL PATIENTS IN SERVICE HOSPITALS

Section 708 of act July 1, 1946, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, provided: "Insane patients entitled to treatment in Saint Elizabeths Hospital who may heretofore or hereafter, during the continuance of the present war [World War II], or during the period of six months thereafter, have been admitted to hospitals of the Service, may continue to be cared for and treated in such hospitals notwithstanding the termination of such period "

#### § 223. Settlement of claims.

The Administrator may consider, ascertain, adjust and determine any claim which shall accrue, on account of damages occasioned by collisions or incident to the operation of vessels of the Service, and for which damages such vessels are found by him to be responsible. To be considered for settlement under this section, claims must be presented to the Administrator within one year of their accrual. The amount ascertained and determined to be due any claimant, not exceeding \$3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made therefor by Congress, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed. Acceptance by any claimant of the amount determined to be due under this section shall be deemed to be in full and final settlement of such claim against the Government of the United States. (July 1, 1944, ch. 373, title V, § 505, 58 Stat. 710.)

#### § 224. Transportation of remains of officers.

Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. (July 1, 1944, ch. 373, title V, § 508, 58 Stat. 710.)

#### § 225. Settlement of accounts of deceased officers.

(a) In the settlement of the accounts of deceased commissioned officers where no demand is presented by a duly appointed representative of the estate, the accounting officers may allow the amount found due to the decedent's widow or legal heirs in the following order of precedence: First, to the widow; second, if the decedent left no widow, or the widow be dead at time of settlement, then to the children or their issue, per stirpes; third, if no widow or children or their issue, then to the father and mother in equal parts, provided the father has not abandoned the support of his family, in which case to the mother alone; fourth, if either the father or mother be dead, then to the one surviving; fifth, if

there be no widow, child, father, or mother at the date of settlement, then to the brothers and sisters and children of deceased brothers and sisters, per stirpes.

(b) Subsection (a) of this section shall not be construed so as to prevent payment of funeral expenses from the amount due the decedent's estate if a claim therefor is presented, before settlement by the accounting officers, by the person or persons who actually paid such expenses. (July 1, 1944, ch. 373, title V, § 507, 58 Stat. 711; Feb. 25, 1946, ch. 35, § 2, 60 Stat. 30.)

#### AMENDMENTS

1946—Subsec. (a) amended by act Feb. 25, 1946, amended section by deleting "the amount due the decedent's estate is less than \$1,000 and" following "commissioned officers where"

#### § 226. Transfer of funds.

For the purpose of any reorganization under section 203 of this title, the Administrator, with the approval of the Director of the Bureau of the Budget, is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions. (July 1, 1944, ch. 373, title V, § 508, 58 Stat. 711.)

#### § 227. Availability of appropriations.

Appropriations for carrying out the purposes of this chapter shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations, expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties, reimbursing officers and employees, subject to regulations of the Administrator, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institute of Health. (July 1, 1944, ch. 373, title V, § 509, 58 Stat. 711; June 25, 1948, ch. 654, § 4, 62 Stat. 1016.)

#### AMENDMENTS

1948—Act June 25, 1948, amended section generally to make it apply to all appropriations to carry out the purposes of the Service instead of merely to appropriations to carry out the research functions of the Service

#### § 228. Wearing of uniforms.

Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such

regulations, by any person other than a commissioned officer of the Service. (July 1, 1944, ch. 373, title V, § 510, 58 Stat. 711; June 25, 1948, ch. 645, § 5, 62 Stat. 859.)

#### AMENDMENTS

1948—Act June 25, 1948, amended section to omit penal provisions which are now covered by section 702 of Title 18, Crimes and Criminal Procedure.

#### EFFECTIVE DATE OF 1948 AMENDMENT

Section 20 of Act June 25, 1948, provided that the amendment of this section should be effective as of Sept. 1, 1948.

#### § 229. Annual report of Surgeon General.

The Surgeon General shall transmit to the Administrator, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this chapter, including a detailed statement of receipts and disbursements. (July 1, 1944, ch. 373, title V, § 511, 58 Stat. 711.)

#### § 230. Computation of retired pay in certain cases.

In the case of any commissioned officer of the Service appointed prior to July 1, 1944, there shall be included, in determining the amount of retired pay pursuant to subsection (b) (1) of section 212 of this title, and in determining whether he should or may be retired pursuant to subsection (a) of section 212 of this title, noncommissioned service in the Public Health Service, as well as all commissioned service. (July 1, 1944, ch. 373, title VII, § 706, 58 Stat. 713; Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (a), 62 Stat. 47; Oct. 12, 1949, ch. 681, title V, § 521 (g), 63 Stat. 835.)

#### AMENDMENTS

1949—Act Oct. 12, 1949, amended section by substituting "subsection (b) (1)" for "subsection (c) (1)", and "subsection (a)" for "subsection (b)".

1948—Act Feb. 28, 1948, amended section by inserting "and in determining \* \* \* subsection (b) of section 212 of this title"

1946—Act Aug. 13, 1946, renumbered Title and section of act July 1, 1944, without otherwise affecting section.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 12, 1949, effective as of Oct. 1, 1949, see note set out under section 231 of Title 37, Pay and Allowances

#### § 231. Service and supply fund; uses; reimbursement.

A service and supply fund of \$250,000 is established, without fiscal year limitation, for the payment of salaries, travel, and other expenses necessary to the maintenance and operation of (1) a supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, materials, equipment, and blank forms, for which stocks may be maintained to meet, in whole or in part, requirements of the Public Health Service and requisitions of other Government Offices, and (2) such other services as the Surgeon General, with the approval of the Administrator of the Federal Security Agency, determines may be performed more advantageously as central services; said fund to be reimbursed from applicable appropriations or funds available when services are performed or stock furnished on a basis of rates which shall include estimated or actual charges for personal services, materials, equipment

(including maintenance, repairs, and depreciation), and other expenses. (July 3, 1945, ch. 263, title II, 59 Stat. 370.)

#### CODIFICATION

Section is from the Federal Security Appropriation Act, 1946, act July 3, 1945, and was not enacted as part of the Public Health Service Act of 1944, which comprises this chapter.

#### § 232. National Institute of Mental Health; appropriation; construction; location.

There is authorized to be appropriated a sum not to exceed \$7,500,000 for the erection and equipment, for the use of the Public Health Service in carrying out the provisions of the National Mental Health Act, of suitable and adequate hospital buildings and facilities, including necessary living quarters for personnel, and of suitable and adequate laboratory buildings and facilities, and such buildings and facilities shall be known as the National Institute of Mental Health. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities, and to erect thereon, furnish, and equip such buildings and facilities. The amount authorized to be appropriated in this section shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work: *Provided*, That the Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction. (July 3, 1946, ch. 538, § 11, 60 Stat. 425; June 30, 1949, ch. 286, title V, § 103, 63 Stat. 380.)

#### REFERENCES IN TEXT

The National Mental Health Act, referred to in text, is classified to sections 201, 209, 210, 215, 218, 219, 232, 241, 242a, 244, and 246 of this title

#### CODIFICATION

Section was enacted as a part of the National Mental Health Act and not as a part of the Public Health Service Act which comprises this chapter.

#### TRANSFER OF FUNCTIONS

All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator were transferred to the Administrator of General Services by section 103 (a) of act June 30, 1949. Both the Federal Works Agency and the office of Federal Works Administrator were abolished by section 103 (b) of said act. Said section 103 is set out as section 630 b of Title 5, Executive Departments and Government Officers and Employees.

#### EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions as effective July 1, 1949, see note set out as section 630b of Title 5, Executive Departments Property, and Works.

### SUBCHAPTER II.—GENERAL POWERS AND DUTIES

#### § 241. Research and investigations generally.

The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and

promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment; and

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section. (July 1, 1944, ch. 373, title III, § 301, 58 Stat. 691; July 3, 1946, ch. 538, § 7 (a, b), 60 Stat. 423; June 16, 1948, ch. 481, § 4 (e, f), 62 Stat. 467; June 24, 1948, ch. 621, § 4 (e, f), 62 Stat. 601; June 25, 1948, ch. 654, § 1, 62 Stat. 1017.)

#### AMENDMENTS

1948—Subsec. (d) amended by acts June 16, 1948, § 4 (e) and June 24, 1948, § 4 (e), to make it applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (d) amended by act June 25, 1948, to continue in basic legislation the authority to purchase penicillin and other antibiotic compounds for use in research projects.

Subsec. (g) amended by acts June 16, 1948, § 4 (f); June 24, 1948, § 4 (f), to make it applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

1946—Subsec. (d) amended by act July 3, 1946, to make the National Advisory Mental Health Council the body to make recommendations to the Surgeon General on awarding of grants-in-aid for research projects with respect to mental health.

Subsec. (g) amended by act July 3, 1946, to give National Advisory Health Council the right to make recommendations to carry out purposes of this section.

#### § 242. Studies and investigations of use of narcotic drugs; cooperation with States.

(a) In carrying out the purposes of section 241 of this title with respect to narcotics, the studies and investigations shall include the use and misuse of narcotic drugs, the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the 1st day of September each year to the Secretary of the Treasury, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under the Narcotic Drugs Import and Export Act, as amended.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts. (July 1, 1944, ch. 373, title III, § 302, 58 Stat. 692.)

#### REFERENCES IN TEXT

The Narcotic Drugs Import and Export Act, referred to in text of subsection (a), is classified to sections 171–173, 174–184, and 185 of Title 21, Food and Drugs.

#### § 242a. Mental health; treatment of voluntary patients; instruction and training of persons and public and nonprofit organizations.

In carrying out the purposes of section 241 of this title with respect to mental health, the Surgeon General is authorized—

(a) For purposes of study, to admit and treat at the National Institute of Mental Health, voluntary patients, whether or not otherwise eligible for such treatment by the Service, and patients of Saint Elizabeths Hospital transferred from the hospital pursuant to arrangements made between the Surgeon General and the Superintendent of the hospital with the approval of the Administrator: *Provided*, That consent of a legal guardian shall be obtained before the transfer of any patient from Saint Elizabeths Hospital for such treatment.



(b) (1) To provide training and instruction, in matters relating to psychiatric disorders, to persons found by him to have proper qualifications, and to fix and pay to any of such persons as he may designate a per diem allowance during such training and instruction of not to exceed \$10, the number of such persons receiving such training and instruction to be fixed by the National Advisory Mental Health Council; and (2) to provide such training and instruction, and demonstrations, through grants, upon recommendation of the National Advisory Mental Health Council, to public and other nonprofit institutions, but only to the extent necessary for the purposes of such training and instruction. (July 1, 1944, ch. 373, title III, § 303, as added July 3, 1946, ch. 538, § 7 (c), 60 Stat. 423.)

#### § 243. Federal and State cooperation generally.

The Surgeon General is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this chapter which such authorities may be able and willing to provide. The Surgeon General shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 246 of this title, and shall advise the several States on matters relating to the preservation and improvement of the public health. (July 1, 1944, ch. 373, title III, § 311, 58 Stat. 693.)

#### § 241. Health conferences.

A conference of the health authorities of the several States shall be called annually by the Surgeon General. Whenever in his opinion the interests of the public health would be promoted by a conference, the Surgeon General may invite as many of such health authorities to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Surgeon General to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend. (July 1, 1944, ch. 373, title III, § 312, 58 Stat. 693; July 3, 1946, ch. 538, § 8, 60 Stat. 424.)

#### AMENDMENTS

1946—Act July 3, 1946, amended section by adding last sentence to provide for the invitation of State mental authorities to conferences whenever mental health matters are to be discussed.

#### § 245. Collection of vital statistics.

To secure uniformity in the registration of mortality, morbidity, and vital statistics the Surgeon General shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part

of the health reports published by the Surgeon General. (July 1, 1944, ch. 373, title III, § 313, 58 Stat. 693.)

#### CROSS REFERENCES

Collection of vital statistics by Federal Security Administrator, see section 101 of Title 13, Census.

#### § 246. Grants and services to States—(a) Prevention, control, and treatment of venereal diseases.

To enable the Surgeon General to carry out the purposes of section 241 of this title with respect to developing more effective measures for the prevention, treatment, and control of venereal diseases, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such diseases, including the training of personnel for State and local health work, and to enable him to prevent and control the spread of the venereal diseases in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purposes of this section with respect to the venereal diseases, and to administer this section with respect to such diseases, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subsection.

#### (b) Prevention, control, and treatment of tuberculosis.

To enable the Surgeon General to carry out the purposes of section 241 of this title with respect to developing more effective measures for the prevention, treatment, and control of tuberculosis, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such disease, including the provision of appropriate facilities for care and treatment and including the training of personnel for State and local health work, and to enable him to prevent and control the spread of tuberculosis in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purposes of this section with respect to tuberculosis, and to administer this section with respect to such disease, there is authorized to be appropriated for the fiscal year ending June 30, 1945, the sum of \$10,000,000, and for each fiscal year thereafter a sum sufficient to carry out the purposes of this subsection.

#### (c) Establishment and maintenance of public health services; appropriations.

To enable the Surgeon General to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public health services, including grants for demonstrations and for the training of personnel for State and local health work, there is



authorized to be appropriated for each fiscal year a sum not to exceed \$30,000,000. Of the sum appropriated for each fiscal year pursuant to this subsection there shall be available an amount, not to exceed \$3,000,000, to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and travelling expenses of commissioned officers and other personnel of the Service detailed to assist States in carrying out the purposes of this subsection.

**(d) Allotments to States.**

For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under subsection (a) of this section, the total sum from the appropriation under subsection (b) of this section, and, within the limits specified in subsection (c) of this section, the total sum from the appropriation under that subsection which shall be available for allotment among the several States. He shall, in accordance with regulations, from time to time make allotments from such sums to the several States on the basis of (1) the population, (2) the extent of the venereal-disease problem, the extent of the tuberculosis problem, and the extent of the mental health problem and other special health problems, respectively, and (3) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof.

**(e) Establishment and maintenance of community programs of heart disease control; appropriations; allotments.**

To enable the Surgeon General to carry out the purposes of sections 287—287d of this title and to assist, through grants, States, counties, health districts, and other political subdivisions of the State, and public and nonprofit agencies, institutions, and other organizations, in establishing and maintaining organized community programs of heart disease control, including grants for demonstrations and the training of personnel, there is authorized to be appropriated for each fiscal year such sums as may be necessary for such purposes. For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under this subsection which shall be available for allotment among the several States, and shall, in accordance with regulations, from time to time make allotments from such sum to the several States on the basis of (1) the population and (2) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof.

**(f) Determination of amounts paid each State.**

The Surgeon General, with the approval of the Administrator, shall from time to time determine the amounts to be paid to each State from the allotments to such State, and shall certify to the Secretary of the Treasury, the amounts so determined, reduced or increased, as the case may be, by

the amounts by which he finds that estimates of required expenditures with respect to any prior period were greater or less than the actual expenditures for such period: *Provided*, That in the case of amounts to be paid from allotments to any State under subsection (c) of this section, the Surgeon General may determine and certify to the Secretary of the Treasury amounts to be paid to a county, health district, other political subdivision of the State or to any public or nonprofit agency, institution, or other organization in the State, if he finds that payment to such subdivision or other organization has been recommended by the State health authority of the State, and (1) that the State health authority has not, prior to August 1 of the fiscal year for which the allotment is made, presented and had approved a plan in accordance with subsection (g) of this section, or (2) that the State health authority is not authorized by law to make payments to such other organization. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

**(g) Conditions on use of allotments.**

The moneys so paid to any State, or to any political subdivision or other organization, shall be expended solely in carrying out the purposes specified in subsection (a), or (b), or (c), or (e) of this section, as the case may be, and in accordance with plans, approved by the Surgeon General, which have been presented by the health authority of such State, or, under the circumstances specified in subsection (f) (1) of this section, by the political subdivision, or the agency, institution or other organization to whom the payment is made, and, to the extent that any such plan contains provisions relating to mental health, by the mental health authority of such State.

**(h) State funds to be provided.**

Money so paid from allotments under subsections (a)—(c), and (e) of this section, shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution or other organization under circumstances specified in subsection (f) (1) of this section; from funds of such political subdivision or organization), an amount determined in accordance with regulations.

**(i) Cessation of Federal aid; notice and hearing.**

Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of the State (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (f) (1) of this section, such subdivision or organization) finds that, with respect to money paid to the State, subdivision, or organization out of appropriations under subsection (a),

or subsection (b), or subsection (c), or subsection (e) of this section, as the case may be, there is a failure to comply substantially with either—

- (1) the provisions of this section;
- (2) the plan submitted under subsection (g) of this section; or
- (3) the regulations;

the Surgeon General shall notify such State health authority or mental health authority, political subdivision, or organization that further payments will not be made to the State subdivision, or organization from appropriations under such subsection (or in his discretion that further payments will not be made to the State, subdivision, or organization from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State, subdivision, or organization from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

**(j) Regulations.**

All regulations and amendments thereto with respect to grants to States under this section shall be made after consultation with a conference of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants under subsection (c) of this section for work in the field of mental health, the State mental health authorities. Insofar as practicable, the Surgeon General shall obtain the agreement, prior to the issuance of any such regulations or amendments, of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants under subsection (c) of this section for work in the field of mental health, the State mental health authorities.

**(k) Availability of funds.**

Funds appropriated under subsection (a) of this section and funds appropriated under subsection (b) of this section, in addition to being available for payments to States, shall also be available for expenditure by the Surgeon General in otherwise carrying out the respective subsections, including expenditures for printing and binding of the findings of investigations, and for pay and allowances and traveling expenses of personnel of the Service engaged in activities authorized by the respective subsections. (July 1, 1944, ch. 373, title III, § 314, 58 Stat. 693; July 3, 1946, ch. 538, § 9, 60 Stat. 424; June 16, 1948, ch. 481, § 5, 62 Stat. 468.)

**AMENDMENTS**

1948—Subsec. (e) added by act June 16, 1948, § 5 (a), to provide for community programs of heart disease control.

Subsec. (f), formerly subsec. (e), renumbered and amended by act June 16, 1948, § 5 (a), (b), which added proviso relating to the determination and certification of amounts to be paid under subsec. (e) of this title.

Subsec. (g), formerly subsec. (f), renumbered and amended by act June 16, 1948, § 5 (a), (c), to bring subsecs. (e) and (f) (1) of this section within the provisions of this subsection.

Subsec. (h), formerly subsec. (g), renumbered and amended by act June 16, 1948, § 5, (a), (d), to make

subsection applicable to agencies, institutions or other organizations specified in subsec. (f) (1) of this section.

Subsec. (i), formerly subsec. (h), renumbered and amended by act June 16, 1948, § 5 (a), (e), to make subsection applicable to subsec. (e) of this section, and to make technical changes as a result of the renumbering of subsections.

Subsec. (j), formerly subsec. (i), renumbered by act June 16, 1948, § 5 (a).

Subsec. (k), formerly subsec. (j), renumbered by act June 16, 1948, § 5 (a).

1946—Subsec. (c) amended by act July 3, 1946, which increased the annual appropriation from \$20,000,000 to \$30,000,000, and increased the annual amount available to provide demonstrations and to train personnel for State and local health work from \$2,000,000 to \$3,000,000.

Subsec. (d) amended by act July 3, 1946, to provide that the Surgeon General shall give special consideration to the extent of the mental health problem as well as other special problems.

Subsec. (f) amended by act July 3, 1946, to provide that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Subsec. (h) amended by act July 3, 1946, to provide that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

Subsec. (i) amended by act July 3, 1946, to provide that in matters relating to work in the field of mental health the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

**§ 247. Publication of health educational information.**

From time to time the Surgeon General shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions engaged in work related to the functions of the Service. (July 1, 1944, ch. 373, title III, § 315, 58 Stat. 695.)

**§ 248. Control and management of hospitals; furnishing prosthetic and orthopedic devices; transfer of patients; disposal of articles produced by patients; disposal of money and effects of deceased patients; payment of burial expenses.**

The Surgeon General, pursuant to regulations, shall—

(a) Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c) Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station. (July 1, 1944, ch. 373, title III, § 321, 58 Stat. 695; June 25, 1948, ch. 654, § 2, 62 Stat. 1017.)

#### AMENDMENTS

1948—Subsec. (a) amended by act June 25, 1948, § 2 (a), to continue the authority of the Service to furnish tobacco to patients being treated by it.

Subsec. (c) amended by act June 25, 1948, § 2 (b), which struck out "and".

Subsec. (d) amended by act June 25, 1948, § 2 (b), which struck out period and inserted in lieu thereof "; and".

Subsec. (e) added by act June 25, 1948, § 2 (b), to provide authority to pay certain burial expenses.

**§ 249. Medical care and treatment of seamen and certain other persons; foreign seamen; certain quarantined persons; temporary treatment in emergency cases; authorization for outside treatment.**

(a) The following persons shall be entitled, in accordance with regulations, to medical, surgical, and dental treatment and hospitalization without charge at hospitals and other stations of the Service:

(1) Seamen employed on vessels of the United States registered, enrolled, and licensed under the maritime laws thereof, other than canal boats engaged in the coasting trade;

(2) Seamen employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration;

(3) Seamen, not enlisted or commissioned in the military or naval establishments, who are employed on State school ships or on vessels of the United States Government of more than five tons' burden;

(4) Cadets at State maritime academies or on State training ships;

(5) Seamen on vessels of the Mississippi River Commission and, upon application of their commanding officers, officers and crews of vessels of the Fish and Wildlife Service;

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Cadet Corps; and

(7) Employees and noncommissioned officers in the field service of the Public Health Service when injured or taken sick in line of duty.

(b) When suitable accommodations are available, seamen on foreign-flag vessels may be given medical, surgical, and dental treatment and hospitalization on application of the master, owner, or agent of the vessel at hospitals and other stations of

the Service at rates fixed by regulations. All expenses connected with such treatment, including burial in the event of death, shall be paid by such master, owner, or agent. No such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed to the Collector of Customs.

(c) Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service.

(d) Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted thereto for temporary treatment and care in case of emergency.

(e) Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) of this section may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made. (July 1, 1944, ch. 373, title III, § 322, 58 Stat. 696; June 25, 1948, ch. 654, § 3, 62 Stat. 1018.)

#### AMENDMENTS

1948—Subsec. (e) amended by act June 25, 1948, to permit the Service to provide for the care and treatment of individuals detained in accordance with our quarantine laws.

#### TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of Justice and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, § 1, 2, eff. May 24, 1950, 15 F. R. 3173, 64 Stat. 1261, set out as a note under section 291 of Title 5, Executive Departments and Government Officers and Employees. The Immigration and Naturalization Service, referred to in this section, is a bureau in the Department of Justice.

#### ABOLISHMENT OF COMMISSION AND TRANSFER OF FUNCTIONS

The United States Maritime Commission was abolished by 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1273, set out in note under section 1111 of Title 46, Shipping, which transferred part of its functions and part of the functions of its Chairman to the Federal Maritime Board and the Chairman thereof, such Board having been created by that Plan as an agency within the Department of Commerce with an independent status in some respects, and transferred the remainder of such Commission's functions and the functions of its Chairman to the Secretary of Commerce, with power vested in the Secretary to authorize their performance by the Maritime Administrator, the head of the Maritime Administration, which likewise was established by the Plan in the Department of Commerce with the provision that the chairman of said Federal Maritime Board should, ex officio, be such Administrator.

#### TERMINATION OF WAR SHIPPING ADMINISTRATION

By section 202 of act July 8, 1946, ch. 543, Title 2, 60 Stat. 501, the War Shipping Administration was terminated as of Sept. 1, 1946, and all its functions, powers, duties, etc., transferred to the United States Maritime Commission for the period from Sept. 1, 1946, to Dec. 31, 1946, for the purpose of liquidating the Administration.

## FOREIGN SEAMEN

Section 710 (c) of act July 1, 1944, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which gave foreign seamen the same benefits as accorded seamen employed on United States vessels under subsec. (a) (1) of this section, was repealed effective Jan. 25, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451.

## § 250. Medical care and treatment of Federal prisoners.

The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by sections 751 and 752 of Title 18, in penal and correctional institutions of the United States. (July 1, 1944, ch. 373, title III, § 323, 58 Stat. 697.)

## REFERENCES IN TEXT

Sections 751 and 752 of Title 18, referred to in the text, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are now covered by section 4005 of Title 18, Crimes and Criminal Procedure.

## § 251. Medical examination and treatment of Federal employees.

The Surgeon General is authorized to provide at institutions, hospitals, and stations of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under the United States Employees' Compensation Act and extensions thereof. The Surgeon General may also provide for making medical examinations of—

(a) employees of the Alaska Railroad and employees of the Federal Government for retirement purposes;

(b) employees in the Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(c) seamen for purposes of qualifying for certificates of service; and

(d) employees eligible for benefits under the longshoremen's and Harbor Workers' Compensation Act, as amended, as requested by any deputy commissioner thereunder. (July 1, 1944, ch. 373, title III, § 324, 58 Stat. 697.)

## REFERENCES IN TEXT

The United States Employees' Compensation Act, referred to in the text, is classified to sections 751—756, 757—791, and 793 of Title 5, Executive Departments and Government Officers and Employees.

The Longshoremen's and Harbor Workers' Compensation Act, referred to in the text, is classified to chapter 18 of Title 33, Navigation and Navigable Waters.

## TRANSFER OF FUNCTIONS

All executive and administrative functions of the Civil Service Commission were transferred to the Chairman of the Civil Service Commission by 1949 Reorg. Plan No. 5, eff. Aug. 20, 1949, 14 F. R. 5227, 63 Stat. 1067. See note set out under section 632 of Title 5, Executive Departments and Government Officers and Employees.

## EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions of the Public Health Service, with respect to medical examination and treatment of Federal employees under section 751 et seq. of Title 5, Executive Departments and Government Officers and Employees, were excepted by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 15 F. R. 3178, 64 Stat. 1271, which transferred the Bureau of Employees' Compensation, and its functions, to the Department of Labor. See note under section 778 of such Title 5.

## § 252. Medical examination of aliens.

The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Administrator. (July 1, 1944, ch. 373, title III, § 325, 58 Stat. 697.)

## § 253. Medical services to Coast Guard, Coast and Geodetic Survey, and Public Health Service; treatment of dependents of personnel; examination of personnel of Service assigned to Coast Guard.

(a) Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard, including those on shore duty and those on detached duty, whether on active duty or retired; and Regular and temporary members of the United States Coast Guard Reserve when on active duty or when retired for disability;

(2) commissioned officers, ships' officers, and members of the crews of vessels of the United States Coast and Geodetic Survey, including those on shore duty and those on detached duty, whether on active duty or retired; and

(3) commissioned officers of the Regular Corps of the Public Health Service, whether on active duty or retired, and commissioned officers of the Reserve Corps when on active duty or when retired for disability;

shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the Coast and Geodetic Survey.

(b) Subject to regulations of the President, the dependent members of families (as defined in such regulations) of persons specified in subsection (a) of this section, other than temporary members of the United States Coast Guard Reserve, shall be furnished medical advice and out-patient treatment by the Service at its hospitals and relief stations, and they shall also be furnished hospitalization at hospitals of the Service, if suitable accommodations are available, at a per diem cost to the officer, enlisted person, or member of a crew concerned. Such cost shall be at such uniform rate as may be prescribed from time to time by the President for the hospitalization of dependents of naval and Marine Corps personnel at any naval hospital, pursuant to section 32 of Title 24.

(c) The Service shall provide all services referred to in subsection (a) of this section required by the Coast Guard and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion and retirement, and officers of the Service assigned to duty on Coast Guard vessels may extend

aid to the crews of American vessels engaged in deep-sea fishing. (July 1, 1944, ch. 373, title III, § 326, 58 Stat. 697.)

#### TRANSFER OF FUNCTIONS

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 591 of Title 5, Executive Departments and Government Officers and Employees. The Coast and Geodetic Survey, referred to in this section, is an agency within the Department of Commerce.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. The Coast Guard, referred to in this section, is generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard is operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

#### CROSS REFERENCES

Members of Coast Guard Reserve entitled to benefits of subsecs. (a) and (b) of this section, see section 755 of Title 14, Coast Guard.

#### § 254. Interdepartmental work.

Nothing contained in sections 248—254 of this title shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work or services, requested in accordance with section 686 of Title 31, or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Federal Security Agency for the Service in accordance with that section. (July 1, 1944, ch. 373, title III, § 327, 58 Stat. 697.)

#### § 255. Lepers; received in any hospital; payment of travel expenses of indigent lepers.

The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 256 or 264 of this title, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State, Territory, or the District of Columbia. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes,

including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service, the Surgeon General is authorized and directed to make payments to the Board of Health of the Territory of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana. (July 1, 1944, ch. 373, title III, § 331, 58 Stat. 698; June 25, 1948, ch. 654, § 4, 62 Stat. 1018; June 25, 1952, ch. 460, 66 Stat. 157.)

#### AMENDMENTS

1952—Act June 25, 1952, amended section to provide for payments to the Hawaiian Board of Health for expenditures made by them in the care and treatment of patients.

1948—Act June 25, 1948, amended section by adding provisions authorizing payment of travel expenses of indigent leper patients.

#### § 256. Apprehension, detention, treatment, and release of lepers.

The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy. (July 1, 1944, ch. 373, title III, § 332, 58 Stat. 698.)

#### § 257. Narcotic addicts; care and treatment.

The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who voluntarily submit themselves for treatment and addicts who have been or are hereafter convicted of offenses against the United States, including persons convicted by general courts martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant. (July 1, 1944, ch. 373, title III, § 341, 58 Stat. 698.)

#### § 258. Same; employment; establishment of industries, plants, etc.; sale of commodities; disposition of proceeds.

Narcotic addicts in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his

authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Administrator shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund. (July 1, 1944, ch. 373, title III, § 342, 58 Stat. 699.)

**§ 259. Convict addicts—(a) Transfers to and from hospitals; duty of prosecuting officers to report convicted persons believed to be addicts.**

The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts, if accommodations are available, all addicts who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such

person, the reasons for his belief, all pertinent facts bearing on such addiction, and the nature of the offense committed. Whenever an alien addict transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

**(b) Parole of inmates; commutation allowance for good conduct.**

The provisions of sections 710—712a of Title 18, regulating commutation of sentence for good conduct of United States prisoners, section 744h of Title 18, regulating commutation of sentence for employment in industry, and sections 714—723c of Title 18, relating to parole, shall be applicable to any narcotic addict confined in any institution in execution of a judgment or sentence upon conviction of an offense against the United States; except that no narcotic addict confined in any institution, whether or not an institution of the Public Health Service, shall be released by reason of commutation of sentence or parole until the Surgeon General shall have certified that such individual is no longer an addict.

**(c) Discharge of addicts; further treatment.**

Not later than one month prior to the expiration of the sentence of any addict confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict and that he may by further treatment in a Service hospital be cured of his addiction, the addict shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The addict may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict may be given such further treatment as is necessary to cure him of his addiction.

**(d) Gratuities and transportation furnished discharged addicts.**

Every person convicted of an offense against the United States, upon discharge, or upon release on parole, from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

**(e) Admission of probationers to hospitals for treatment.**

Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict, shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts until discharged therefrom as cured and that he shall be admitted thereto for such pur-

pose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts discharged from hospitals of the Service. (July 1, 1944, ch. 373, title III, § 343, 58 Stat. 699.)

## REFERENCES IN TEXT

Sections 710—712a, 714—723c and 744h of Title 18, referred to in text of subsection (b), were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and are now generally covered by chapters 309 and 311 of Title 18, Crimes and Criminal Procedure.

§ 260. Addicts admitted to hospitals as voluntary patients; examination; payment of charges; length of confinement; forfeiture of civil rights.

(a) Any addict, whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts.

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict, whether by treatment in a hospital of the Service he may probably be cured of his addiction, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted. Any such addict may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict who is discharged as cured.

(c) Any addict admitted for treatment under this section, including any addict, not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of

time estimated by the Surgeon General as necessary to effect a cure of the addiction or until such time as he ceases to be an addict.

(d) Any addict admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall be confidential and shall not be divulged. (July 1, 1944, ch. 373, title III, § 344, 58 Stat. 701; June 25, 1948, ch. 654, § 5, 62 Stat. 1018.)

## AMENDMENTS

1948—Subsec. (b) amended by act June 25, 1948, which added last sentence to continue authority to provide transportation for indigent narcotics who are discharged as cured.

§ 261. Penalties for introduction of narcotics into hospitals; escaping from, or aiding and abetting escape from hospitals.

(a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the Service at which addicts are treated and cared for, any habit-forming narcotic drug, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years. (July 1, 1944, ch. 373, title III, § 345, 58 Stat. 701.)

§ 262. Regulation of biological products—(a) Intrastate and interstate traffic; suspension or revocation of license as affecting prior sales.

No person shall sell, barter, or exchange, or offer for sale, barter, or exchange in the District of Columbia, or send, carry, or bring for sale, barter, or exchange from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession, any virus, therapeutic serum, toxin, antitoxin, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man, unless (1) such virus, serum, toxin, antitoxin, or other product has been propagated or manufactured and prepared at an establishment holding an unsuspended and un-



revoked license, issued by the Administrator as hereinafter authorized, to propagate or manufacture, and prepare such virus, serum, toxin, antitoxin, or other product for sale in the District of Columbia, or for sending, bringing, or carrying from place to place aforesaid; and (2) each package of such virus, serum, toxin, antitoxin, or other product is plainly marked with the proper name of the article contained therein, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected beyond reasonable doubt to yield their specific results. The suspension or revocation of any license shall not prevent the sale, barter, or exchange of any virus, serum, toxin, antitoxin, or other product aforesaid which has been sold and delivered by the licensee prior to such suspension or revocation, unless the owner or custodian of such virus, serum, toxin, antitoxin, or other product aforesaid has been notified by the Administrator not to sell, barter, or exchange the same.

**(b) Falsely labeling or marking package or container; altering label or mark.**

No person shall falsely label or mark any package or container of any virus, serum, toxin, antitoxin, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, or other product aforesaid so as to falsify such label or mark.

**(c) Inspection of establishment for propagation and preparation.**

Any officer, agent, or employee of the Federal Security Agency, authorized by the Administrator for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any virus, serum, toxin, antitoxin, or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.

**(d) Regulations governing licenses.**

Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations made jointly by the Surgeon General, the Surgeon General of the Army, and the Surgeon General of the Navy, and approved by the Administrator, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishments for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.

**(e) Interference with officers.**

No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

**(f) Penalties for offenses.**

Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding \$500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

**(g) Construction with other laws.**

Nothing contained in this chapter shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act. (July 1, 1944, ch. 373, title III, § 351, 58 Stat. 702.)

**REFERENCES IN TEXT**

The Federal Food, Drug, and Cosmetic Act, referred to in text of subsec. (g), is classified to chapter 9 of Title 21, Food and Drugs.

**CROSS REFERENCES**

Regulation of biological products for use in treatment of domestic animals, see sections 151-158 of Title 21, Food and Drugs.

**§ 263. Preparation of biological products by Service.**

(a) The Service may prepare for its own use any product described in section 262 of this title and any product necessary to carrying out any of the purposes of section 241 of this title.

(b) The Service may prepare any product described in section 262 of this title for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section. (July 1, 1944, ch. 373, title III, § 352, 58 Stat. 703.)

**§ 264. Regulations to control communicable diseases; apprehension, detention, and release of certain persons from particular places.**

(a) The Surgeon General, with the approval of the Administrator, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the



President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Except as provided in subsection (d) of this section, regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country, the Territory of Hawaii, or a possession.

(d) On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. (July 1, 1944, ch. 373, title III, § 361, 58 Stat. 703.)

#### CROSS REFERENCES

Compliance with State laws, see section 47 of this title. Removal of revenue officers, during epidemics, see section 112 of this title.

#### § 265. Suspension of entries and imports from designated places to prevent spread of communicable diseases.

Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose. (July 1, 1944, ch. 373, title III, § 362, 58 Stat. 704.)

#### § 266. Special quarantine powers in time of war.

To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 264 of this title, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if

upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary. (July 1, 1944, ch. 373, title III, § 363, 58 Stat. 704.)

#### TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

#### § 267. Control and management of quarantine stations; hours of inspection.

(a) Except as provided in sections 191, 192, 193, and 194 of Title 50, the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States. (July 1, 1944, ch. 373, title III, § 364, 58 Stat. 704.)

#### REFERENCES IN TEXT

Section 193 of Title 50, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 2274 of Title 18, Crimes and Criminal Procedure.

#### § 268. Quarantine duties of consular and other officers.

(a) Any consular or medical officer of the United States, designated for such purpose by the Administrator, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services. (July 1, 1944, ch. 373, title III, § 365, 58 Stat. 705.)

## TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees. Officers of the customs are officers of the Treasury Department, and the Coast Guard is generally a service in such Department, but said Plan provided that, notwithstanding such transfer of functions, the Coast Guard shall continue to operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in sections 1 and 3 of Title 14, Coast Guard.

**§ 269. Bills of health—(a) Detail of medical officer; conditions precedent to issuance; consular officer to receive fees.**

Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c) of this section. Before granting such duplicate bill of health, such consular or medical officer shall be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

**(b) Collectors of customs to receive originals; duplicate copies as part of ship's papers.**

Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

**(c) Regulations to secure sanitary conditions of vessels.**

The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be observed by such vessels prior to departure, during the course of the voyage,

and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

**(d) Vessels from ports near frontier.**

The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

**(e) Compliance with regulations.**

It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations prescribed under subsection (c) of this section have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station. (July 1, 1944, ch. 373, title III, § 366, 58 Stat. 705.)

**§ 270. Quarantine regulations governing civil air navigation and civil aircraft.**

The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 267—269 of this title and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health. (July 1, 1944, ch. 373, title III, § 367, 58 Stat. 706.)

**§ 271. Penalties for violation of quarantine laws; remission or mitigation of forfeitures.**

(a) Any person who violates any regulation prescribed under sections 264—266 of this title, or any provision of section 269 of this title or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

(b) Any vessel which violates section 269 of this title, or any regulations thereunder or under section 267 of this title, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than \$5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered by proceedings in the proper district court of the United States. In all such proceedings the United States attorney shall appear on behalf of the United States; and all such proceedings shall

be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) With the approval of the Administrator, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications. (July 1, 1944, ch. 373, title III, § 368, 58 Stat. 706; June 25, 1948, ch. 446, § 1, 62 Stat. 909.)

#### CHANGE OF NAME

Act June 25, 1948, substituted "United States attorney" in lieu of "United States district attorney". See section 501 of Title 28, Judiciary and Judicial Procedure.

#### § 272. Administration of oaths by quarantine officers.

Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States. (July 1, 1944, ch. 373, title III, § 369, 58 Stat. 706.)

### SUBCHAPTER III.—NATIONAL RESEARCH INSTITUTES

#### AMENDMENTS

1950—Act Aug. 15, 1950, ch. 714, § 2 (a), 64 Stat. 444, amended subchapter heading by changing it from the "National Cancer, Heart, and Dental Institutes" to its present form.

1948—Acts June 16, 1948, ch. 481, § 3 (a), 62 Stat. 464; June 24, 1948, ch. 621, § 3 (a), 62 Stat. 598, amended subchapter heading by changing it from the "National Cancer Institute" to "National Cancer and Heart Institutes" and then to "National Cancer, Heart, and Dental Institutes".

#### PART A. NATIONAL CANCER INSTITUTE

#### AMENDMENTS

1948—Act June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464, added heading.

#### § 281. Division in National Institutes of Health.

The National Cancer Institute shall be a division in the National Institutes of Health. (July 1, 1944, ch. 373, title IV, § 401, 58 Stat. 707; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

#### AMENDMENTS

1948—Act June 16, 1948, amended section by substituting "National Institutes of Health" for "National Institute of Health".

#### § 282. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to cancer the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Council, shall—

##### (a) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

##### (b) Coordination of researches.

Promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals;

##### (c) Technical training and instruction.

Provide training and instruction in technical matters relating to the diagnosis and treatment of cancer;

##### (d) Establishment of fellowships.

Provide fellowships in the Institute from funds appropriated or donated for such purpose;

##### (e) Securement of expert advice.

Secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

##### (f) Cooperation with State agencies.

Cooperate with State health agencies in the prevention, control, and eradication of cancer;

##### (g) Acquisition, use, and loan of radium.

Procure, use, and lend radium as provided in section 283 of this title. (July 1, 1944, ch. 373, title IV, § 402, 58 Stat. 707.)

#### § 283. Administration of powers by Surgeon General; radium; technical instruction and training; acceptance of gifts; memorials; grants-in-aid.

(a) In carrying out the provisions of section 282 of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and he is authorized—

(1) to purchase radium, from time to time, without regard to section 5 of Title 41 to make such radium available for the purposes of sections 281—286 of this title, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe;

(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to diagnosis and treatment of cancer to persons found by the Surgeon General to have proper technical qualifications, and designated by him for such training or instruction, and to fix and pay them a per diem allowance during such training or instruction of not to exceed \$10.

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Council. Donations of \$50,000 or over in aid of research under sections 281—286 of this title may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) In carrying out the purposes of section 282 of this title grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Council made pursuant to section 284 of this title. (July 1, 1944, ch. 373, title IV, § 403, 58 Stat. 707; June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

#### AMENDMENTS

1948—Act June 16, 1948, amended section by substituting "sections 281—286 of this title" for "this subchapter" wherever appearing.

**§ 284. Functions of council.**

The council is authorized—

**(a) Review of research problems.**

To review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 282 of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

**(b) Collection and dissemination of information.**

To collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

**(c) Review of applications by research institutions for grants-in-aid.**

To review applications from any university, hospital, laboratory, or other institution whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of cancer;

**(d) Recommendations for acceptance of conditional gifts.**

To recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title; and

**(e) Recommendations for administration of laws.**

To make recommendations to the Surgeon General with respect to carrying out the provisions of sections 281—286 of this title. (July 1, 1944, ch. 373, title IV, § 404, 58 Stat. 708; June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

**AMENDMENTS**

1948—Act June 16, 1948, amended section by substituting "sections 281—286 of this title" for "this subchapter" wherever appearing

**§ 285. Use of appropriations.**

Appropriations to carry out the purposes of this subchapter shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 5 of Title 41; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon

General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this subchapter. (July 1, 1944, ch. 373, title IV, § 405, 58 Stat. 708.)

**§ 286. Additional authority.**

Sections 281—286 of this title shall not be construed as limiting (a) the functions or authority of the Surgeon General of the Public Health Service under any other subchapter of this chapter, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this chapter; or (b) the expenditure of money therefor. (July 1, 1944, ch. 373, title IV, § 406, 58 Stat. 708; June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469; Aug. 15, 1950, ch. 714, § 4 (a), 64 Stat. 447.)

**AMENDMENTS**

1950—Act Aug. 15, 1950, amended section to make it applicable to any disease or diseases.

1948—Act June 16, 1948, amended section by substituting "sections 281—286 of this title" for "this subchapter" wherever appearing.

**PART B NATIONAL HEART INSTITUTE****AMENDMENTS**

1948—Act June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464, added heading.

**§ 287. Establishment of Institute.**

There is established in the Public Health Service a National Heart Institute (hereafter in sections 287—287c of this title referred to as the "Institute"). (July 1, 1944, ch. 373, title IV, § 411, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

**SHORT TITLE**

Congress in enacting sections 287—287c of this title, and amendments to sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 283, 284, and 286 of this title by act June 16, 1948, provided by section 1 of said act June 16, 1948, that said sections should be popularly known as the "National Heart Act"

**PURPOSE OF SECTIONS 287—287c OF THIS TITLE**

Section 2 of act June 16, 1948, provided that: "The purpose of this Act [sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 283, 284, 286, and 287—287c of this title] is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart and circulation; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to heart diseases, including refresher courses for physicians; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of heart diseases."

**§ 287a. Powers and duties of Surgeon General.**

In carrying out the purposes of section 241 of this title with respect to heart diseases the Surgeon Gen-

eral, through the Institute and in cooperation with the National Advisory Heart Council (hereinafter in sections 287—287c of this title referred to as the "Council"), shall—

**(a) Fosterage of research.**

Conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart diseases;

**(b) Coordination of research and control programs.**

Promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

**(c) Research facilities made available.**

Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of sections 287—287c of this title;

**(d) Grants-in-aid for research projects.**

Make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart diseases as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

**(e) Establishment of information center.**

Establish an information center on research, prevention, diagnosis, and treatment of heart diseases, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to sections 287—287c of this title;

**(f) Securement of expert advice and services.**

Secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart diseases;

**(g) Establishment of fellowships and traineeships.**

In accordance with regulations and from funds appropriated or donated for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem

necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions. (July 1, 1944, ch. 373, title IV, § 412, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

**§ 287h. Administration of powers by Surgeon General; acceptance of gifts; memorials.**

(a) In carrying out the provisions of section 287a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for heart disease research and training projects shall be made only after review and recommendation of the Council made pursuant to section 287c of this title.

(b) The Surgeon General shall recommend to the Administrator acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart diseases, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of sections 287—287c of this title may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (July 1, 1944, ch. 373, title IV, § 413, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

**§ 287c. Functions of Council.**

The Council is authorized to—

**(a) Review of research problems.**

Review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart diseases, and certify approval to the Surgeon General, for prosecution under section 287a of this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart diseases;

**(b) Review applications for grants-in-aid for research.**

Review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart diseases, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart disease;

**(c) Review applications for grants-in-aid for traineeships.**

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart dis-

eases, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter;

**(d) Collection and dissemination of information.**

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart diseases, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private) physicians, or any other scientists, and for the information of the general public;

**(e) Recommendations for acceptance of conditional gifts.**

Recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of sections 287—287c of this title; and

**(f) Recommendations for administration of laws.**

Advise, consult with, and make recommendations to the Surgeon General with respect to carrying out the provisions of sections 287—287c of this title. (July 1, 1944, ch. 373, title IV, § 414, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

§ 287d. Repealed. Aug. 15, 1950, ch. 714, § 4 (c), 61 Stat. 417.

Section, act July 1, 1944, ch. 373, title IV, § 415, as added June 16, 1948, ch. 621, § 3 (b), 62 Stat. 598, which related to additional authority with respect to heart diseases, is now covered by section 286 of this title.

**PART C. NATIONAL INSTITUTE OF DENTAL RESEARCH**

**AMENDMENTS**

Act June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, added heading.

**§ 288. Establishment of Institute.**

There is established in the Public Health Service a National Institute of Dental Research (hereafter in sections 288—288c of this title referred to as the "Institute"). (July 1, 1944, ch. 373, title IV, § 421, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

**SHORT TITLE**

Congress in enacting sections 288—288c of this title, and amendments to sections 201, 210, 218, and 241 of this title by act June 24, 1948, provided by section 1 of said act June 24, 1948, that said sections should be popularly known as the "National Dental Research Act".

**PURPOSE OF SECTIONS 288—288c OF THIS TITLE**

Section 2 of act June 24, 1948, provided that: "The purpose of this Act [sections 201, 210, 218, 241, and 288—288c of this title] is to improve the dental health of the people of the United States through the conduct of researches, investigations, experiments, and studies relating to the cause, diagnosis, and treatment of dental diseases and conditions; assist and foster such researches and other activities by public and private agencies; provide training in matters relating to dental diseases and conditions; and promote the coordination of all such researches and activities and the useful application of their results, with a view to the development and prompt

widespread use of the most effective methods of prevention, diagnosis, and treatment of dental diseases and conditions."

**APPROPRIATION FOR CONSTRUCTION OF RESEARCH FACILITIES**

Section 5 of act June 24, 1948, as amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380, provided that: "There is hereby authorized to be appropriated a sum not to exceed \$2,000,000 for the erection and equipment of suitable and adequate buildings and facilities for the use of the National Institute of Dental Research in carrying out the provisions of this Act [sections 201, 210, 218, 241, and 288—288c of this title]. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities, and to erect thereon, furnish, and equip such buildings and facilities. The amount authorized to be appropriated in this section shall include the cost of preparation of drawings and specifications, supervision of construction and other administrative expenses incident to the work: *Provided*, That the Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction."

**§ 288a. Powers and duties of Surgeon General.**

In carrying out the purposes of section 241 of this title with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in sections 288—288c of this title referred to as the "Council"), shall—

**(a) Fostering of research.**

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

**(b) Coordination of research programs.**

Promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals;

**(c) Establishment of fellowships.**

Provide fellowships in the Institute from funds appropriated or donated for the purpose;

**(d) Securement of expert advice and services.**

Secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

**(e) Cooperation with State health agencies.**

Cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

**(f) Establishment of traineeships.**

Provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other non-

profit institutions. (July 1, 1944, ch. 373, title IV, § 422, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

**§ 288b. Administration of powers by Surgeon General; acceptance of gifts; memorials.**

(a) In carrying out the provisions of section 288a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 288c of this title.

(b) The Surgeon General shall recommend to the Administrator acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of sections 288—288c of this title may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (July 1, 1944, ch. 373, title IV, § 423, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

**§ 288c. Functions of Council.**

The Council is authorized to—

**(a) Review of research problems.**

Review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the Surgeon General, for prosecution under section 288a (a) of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions;

**(b) Collection and dissemination of information.**

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;

**(c) Review applications for grants-in-aid for research.**

Review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

**(d) Recommendations for acceptance of conditional gifts.**

Recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of sections 288—288c of this title;

**(e) Recommendations for administration of laws.**

Make recommendations to the Surgeon General with respect to carrying out the provisions of sections 288—288c of this title; and

**(f) Review applications for grants-in-aid for traineeships.**

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter. (July 1, 1944, ch. 373, title IV, § 424, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

§§ 288d, 288e. Repealed. Aug. 15, 1950, ch. 714, § 4 (c), 61 Stat. 417.

Section 288d, act July 1, 1944, ch. 373, title IV, § 425, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, which related to additional authority with respect to dental diseases is now covered by section 286 of this title.

Section 288e, act July 1, 1944, ch. 373, title IV, § 426, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, related to annual appropriations

**PART D. NATIONAL INSTITUTE ON ARTHRITIS, RHEUMATISM, AND METABOLIC DISEASES, NATIONAL INSTITUTE ON NEUROLOGICAL DISEASES AND BLINDNESS, AND OTHER INSTITUTES**

**AMENDMENTS**

1950—Act Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444, added this part.

**§ 289. Congressional declaration of purpose.**

The purpose of sections 210 (c), (g), 218, 286, and 289—289c of this title is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of arthritis and rheumatism, multiple sclerosis, cerebral palsy, epilepsy, poliomyelitis, blindness, leprosy, and other diseases; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to such diseases; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of such diseases. (Aug. 15, 1950, ch. 714, § 1, 64 Stat. 443.)

**CODIFICATION**

Section was not enacted as a part of the Public Health Service Act which comprises this chapter

**§ 289a. Establishment of Institutes; abolishment; expansion of already established Institutes.**

(a) The Surgeon General shall establish in the Public Health Service an institute for research on



arthritis, rheumatism, and metabolic diseases, and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also establish a national advisory council for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council is concerned.

(b) The Surgeon General is authorized with the approval of the Administrator to establish in the Public Health Service one or more additional institutes to conduct and support scientific research and professional training relating to the cause, prevention, and methods of diagnosis and treatment of other particular diseases or groups of diseases (including poliomyelitis and leprosy) whenever the Surgeon General determines that such action is necessary to effectuate fully the purposes of section 241 of this title with respect to such disease or diseases. Any institute established pursuant to this subsection may in like manner be abolished and its functions transferred elsewhere in the Public Health Service upon a finding by the Surgeon General that a separate institute is no longer required for such purposes. In lieu of the establishment pursuant to this subsection of an additional institute with respect to any disease or diseases, the Surgeon General may expand the functions of any institute established under subsection (a) of this section or under any other provision of this chapter so as to include functions with respect to such disease or diseases and to terminate such expansion and transfer the functions given such institute elsewhere in the Service upon a finding by the Surgeon General that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Surgeon General may change the title thereof so as to reflect its new functions. (July 1, 1944, ch. 373, title IV, § 431, as added Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444.)

§ 289b. Establishment of national advisory councils; composition; qualifications; appointment and tenure; expansion of functions of already established councils.

(a) The Surgeon General is also authorized with the approval of the Administrator to establish additional national advisory councils to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of any institute established under subsection (b) of section 289a of this title, or relating to the conduct and support of research and training in such disease or group of diseases (except a disease or group of diseases for which an institute is established under any provision of sections 289—289c of this title other than section 289a (b) of this title) as he may designate. Any such council, and each of the two councils established under section 289a (a) of this title, shall consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members, and of twelve members appointed without regard to the civil-service laws by

the Surgeon General with the approval of the Administrator. The twelve appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed. Each appointed member of the council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) In lieu of appointment of an additional advisory council upon the establishment pursuant to subsection (b) of section 289a of this title of an additional institute or upon expansion pursuant to such subsection of the functions of an institute, the Surgeon General may expand the functions of an advisory council established under section 289a (a) of this title or any other provision of this chapter so as to include functions with respect to the particular disease or diseases to which the activities of the additional institute or the expanded activities of the existing institute are directed. In the case of any such expansion of an existing council, the membership thereof representing persons outstanding in activities with which the council is concerned may be changed or increased so as to include some persons outstanding in the new activities. Any new council established under subsection (a) of this section or any expansion of an existing council under this subsection may be terminated by the Surgeon General at, before, or after the termination of the new institute or expansion of the existing institute which occasioned such new council or expansion of an existing council. In the case of any such expansion of an existing council, the Surgeon General may change the title thereof so as to reflect its new functions. (July 1, 1944, ch. 373, title IV, § 432, as added Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444.)

#### REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified to chapter 12 of Title 5, Executive Departments and Government Officers and Employees.

§ 289c. Same; functions.

(a) Where an institute has been established under sections 289—289c of this title, the Surgeon General shall carry out the purposes of section 241 of this title with respect to the conduct and support of research relating to the disease or diseases to which the activities of the institute are directed (including grants-in-aid for drawing plans, erection of buildings, and acquisitions of land therefor), through such institute and in cooperation with the national advisory council established or expanded



by reason of the establishment of such institute. In addition, the Surgeon General is authorized to provide training and instruction and establish and maintain traineeships and fellowships, in such institute and elsewhere, in matters relating to the diagnosis, prevention, and treatment of such disease or diseases with such stipends and allowances (including travel and subsistence expenses) for trainees and fellows as he may deem necessary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public and other nonprofit institutions. The provisions of this subsection shall also be applicable to any institute established by any other provision of this chapter to the extent that such institute does not already have the authority conferred by this subsection.

(b) Upon the appointment of a national advisory council for an institute established under sections 289—289c of this title or the expansion of an existing institute pursuant to said sections, such council shall assume the duties, functions, and powers of the National Advisory Health Council with respect to grants-in-aid for research and training projects relating to the disease or diseases to which the activities of the institute are directed. (July 1, 1944, ch. 373, title IV, § 433, as added Aug. 15, 1950, ch. 714, § 2 (b), 64 Stat. 444.)

#### SUBCHAPTER IV.—CONSTRUCTION OF HOSPITALS

##### § 291. Congressional declaration of purpose.

The purpose of this subchapter is—

(a) to assist the several States to inventory their existing hospitals (as defined in section 291i (e) of this title), to survey the need for construction of hospitals, and to develop programs for construction of such public and other nonprofit hospitals as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital, clinic, and similar services to all their people;

(b) to assist in the construction of public and other nonprofit hospitals in accordance with such programs; and

(c) to authorize the Surgeon General to conduct, and make grants for the conduct of, research, experiments, and demonstrations relating to the effective development and utilization of hospital services, facilities, and resources, and to promote the coordination of such experiments and demonstrations and the useful application of their results. (July 1, 1944, ch. 373, title VI, § 601, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 6, 63 Stat. 900.)

#### AMENDMENTS

1949—Subsecs. (a) and (b) reenacted with minor technical changes by act Oct. 25, 1949.

Subsec. (c) added by act Oct. 25, 1949.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Section 10 of act Oct. 25, 1949, provided that the amendments to this section and sections 291d and 291f—291j of this title and addition of section 291n of this title effected by said act Oct. 25, 1949, should be effective Oct. 25, 1949.

#### SHORT TITLE

Congress in enacting this subchapter provided by section 1 of act Aug. 13, 1946, that it should be popularly known as the "Hospital Survey and Construction Act of 1946".

Congress in enacting act Oct. 25, 1949, which amended this section and sections 291d and 291f—291j of this title and added section 291n of this title, provided by section 1 of said act Oct. 25, 1949, that such amendments and addition should be popularly known as the "Hospital Survey and Construction Amendments of 1949".

##### § 291a. Appropriations for surveys and planning.

In order to assist the States in carrying out the purposes of section 291 (a) of this title, there is authorized to be appropriated the sum of \$3,000,000, to remain available until expended. The sums appropriated under this section shall be used for making payments to States which have submitted, and had approved by the Surgeon General, State applications for funds for carrying out such purposes. (July 1, 1944, ch. 373, title VI, § 611, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041.)

##### § 291b. State application for funds; requirements; approval.

(a) To be approved, a State application for funds for carrying out the purposes of section 291 (a) of this title must—

(1) designate a single State agency as the sole agency for carrying out such purposes: *Provided*, That after a State plan has been approved under section 291f of this title, any further survey or programming functions shall be carried out, pursuant to section 291f (a) (10) of this title, by the agency designated in accordance with section 291f (a) (1) of this title;

(2) provide for the designation of a State advisory council, which shall include representatives of nongovernment organizations or groups, and of State agencies, concerned with the operation, construction, or utilization of hospitals, including representatives of the consumers of hospital services selected from among persons familiar with the need for such services in urban or rural areas, to consult with the State agency in carrying out such purposes;

(3) provide for making an inventory and survey in accordance with section 291 (a) of this title containing all information required by the Surgeon General, and for developing a program in accordance with section 291 (a) of this title and with regulations prescribed under section 291e of this title; and

(4) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and give the Surgeon General, upon demand, access to the records on which such reports are based.

(b) The Surgeon General shall approve any application for funds which complies with the provisions of subsection (a) of this section. (July 1, 1944, ch. 373, title VI, § 612, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041.)

**§ 291c. Allotments to States; determination of amount; disposition of unexpended funds.**

(a) Each State for which a State application under section 291b of this title has been approved shall be entitled to an allotment of such proportion of any appropriation made pursuant to section 291a of this title as its population bears to the population of all the States, and within such allotment it shall be entitled to receive  $33\frac{1}{3}$  per centum of its expenditures in carrying out the purposes of section 601 (a) in accordance with its application: *Provided*, That no such allotment to any State shall be less than \$10,000. The Surgeon General shall from time to time estimate the sum to which each State will be entitled under this section, during such ensuing period as he may determine, and shall thereupon certify to the Secretary of the Treasury the amount so estimated, reduced or increased, as the case may be, by any sum by which the Surgeon General finds that his estimate for any prior period was greater or less than the amount to which the State was entitled for such period. The Secretary of the Treasury shall thereupon, prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Surgeon General, the amount so certified.

(b) Any funds paid to a State under this section and not expended for the purposes for which paid shall be repaid to the Treasury of the United States. (July 1, 1944, ch. 373, title VI, § 613, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041.)

**§ 291d. Appropriations for construction of hospitals and related facilities.**

In order to assist the States in carrying out the purposes of section 291 (b) of this title, there is authorized to be appropriated for the fiscal year ending June 30, 1950, and for each of the five succeeding fiscal years, the sum of \$150,000,000 for the construction of public and other nonprofit hospitals; and there are further authorized to be appropriated for such construction the sums provided in section 291g of this title. The sums appropriated pursuant to this section shall be used for making payments to States which have submitted, and had approved by the Surgeon General, State plans for carrying out the purposes of section 291 (b) of this title; and for making payments to political subdivisions of, and public or other nonprofit agencies in, such States. (July 1, 1944, ch. 373, title VI, § 621, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 2 (a), 63 Stat. 898.)

**AMENDMENTS**

1949—Act Oct. 25, 1949, amended section by extending the expiration date through the fiscal year ending June 30, 1955 and increasing the annual appropriation from \$75,000,000 to \$150,000,000.

**EFFECTIVE DATE OF 1949 AMENDMENT**

Amendment of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

**§ 291e. General regulations.**

Within six months after August 13, 1946, the Surgeon General, with the approval of the Federal Hos-

pital Council and the Administrator, shall by general regulation prescribe—

**(a) Number of general hospital beds.**

The number of general hospital beds required to provide adequate hospital services to the people residing in a State, and the general method or methods by which such beds shall be distributed among base areas, intermediate areas, and rural areas: *Provided*, That for the purposes of this subchapter, the total of such beds for any State shall not exceed four and one-half per thousand population, except that in States having less than twelve and more than six persons per square mile the limit shall be five beds per thousand population, and in States having six persons or less per square mile the limit shall be five and one-half beds per thousand population; but if, in any area (as defined in the regulations) within the State, there are more beds than required by the standards prescribed by the Surgeon General, the excess over such standards may be eliminated in calculating this maximum allowance.

**(b) Number of beds for tuberculous, mental, and chronic-disease patients; distribution of beds.**

The number of beds required to provide adequate hospital services for tuberculous patients, mental patients, and chronic-disease patients in a State, and the general method or methods by which such beds shall be distributed throughout the State: *Provided*, That for the purposes of this subchapter the total number of beds for tuberculous patients shall not exceed two and one-half times the average annual deaths from tuberculosis in the State over the five-year period from 1940 to 1944, inclusive, the total number of beds for mental patients shall not exceed five per thousand population, and the total number of beds for chronic-disease patients shall not exceed two per thousand population.

**(c) Number and distribution of public health centers.**

The number of public health centers and the general method of distribution of such centers throughout the State, which for the purposes of this subchapter, shall not exceed one per thirty thousand population, except that in States having less than twelve persons per square mile, it shall not exceed one per twenty thousand population.

**(d) Priority of projects.**

The general manner in which the State agency shall determine the priority of projects based on the relative need of different sections of the population and of different areas lacking adequate hospital facilities, giving special consideration to hospitals serving rural communities and areas with relatively small financial resources.

**(e) Standards of construction and equipment.**

General standards of construction and equipment for hospitals of different classes and in different types of location.

**(f) State plan.**

That the State plan shall provide for adequate hospital facilities for the people residing in a State, without discrimination on account of race, creed, or color, and shall provide for adequate hospital

facilities for persons unable to pay therefor. Such regulation may require that before approval of any application for a hospital or addition to a hospital is recommended by a State agency, assurance shall be received by the State from the applicant that (1) such hospital or addition to a hospital will be made available to all persons residing in the territorial area of the applicant, without discrimination on account of race, creed, or color, but an exception shall be made in cases where separate hospital facilities are provided for separate population groups, if the plan makes equitable provision on the basis of need for facilities and services of like quality for each such group; and (2) there will be made available in each such hospital or addition to a hospital a reasonable volume of hospital services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial standpoint.

**(g) Methods of administration.**

General methods of administration of the plan by the designated State agency, subject to the limitations set forth in section 291f (a) (6) and (8) of this title. (July 1, 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041.)

**§ 291f. State plans—(a) Submission; requirements.**

After such regulations have been issued, any State desiring to take advantage of sections 291d—291h of this title may submit a State plan for carrying out the purposes of section 291 (b) of this title. Such State plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) of this subsection will have authority to carry out such plan in conformity with sections 291d—291h of this title;

(3) provide for the designation of a State advisory council which shall include representatives of non-government organizations or groups, and of State agencies, concerned with the operation, construction, or utilization of hospitals, including representatives of the consumers of hospital services selected from among persons familiar with the need for such services in urban or rural areas, to consult with the State agency in carrying out such plans;

(4) set forth a hospital construction program (A) which is based on a State-wide inventory of existing hospitals and survey of need; (B) which conforms with the regulations prescribed by the Surgeon General under section 291e (a)—(c) of this title; (C) which, in the case of a State which has developed a program under sections 291a—291c of this title, conforms to the program so developed except for any modification required in order to comply with regulations prescribed pursuant to section 291e (a)—(c) of this title, and except for any modification recommended by the State agency designated pursuant to paragraph (1) of this subsection and approved by the Surgeon General; and (D)

which meets the requirements as to lack of discrimination on account of race, creed, or color, and for furnishing needed hospital services to persons unable to pay therefor, required by regulations prescribed under section 291e (f) of this title;

(5) set forth the relative need determined in accordance with the regulations prescribed under section 291e (d) of this title, for the several projects included in such programs, and provide for the construction, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(6) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as the Surgeon General prescribes by regulation under section 291e (g) of this title;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of hospitals which receive Federal aid under sections 291d—291h of this title;

(8) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(9) provide that the State agency will make such reports in such form and containing such information as the Surgeon General may from time to time reasonably require, and give the Surgeon General, upon demand, access to the records upon which such information is based; and

(10) provide that the State agency will from time to time review its hospital construction program and submit to the Surgeon General any modifications thereof which it considers necessary.

**(b) Approval by Surgeon General; review.**

The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section. If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a) of this section, the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.

**(c) Limitation on changes.**

No changes in a State plan shall be required within two years after initial approval thereof, or within two years after any change thereafter required therein, by reason of any change in the regulations prescribed pursuant to section 291e of this title, except with the consent of the State, or in accordance with further action by the Congress.

**(d) Cessation of allotments.**

If any State, prior to July 1, 1948, has not enacted legislation providing that compliance with minimum standards of maintenance and operation

shall be required prior to that date (or, at the option of the State, required within such time after enactment of the legislation as the Surgeon General finds reasonable) in the case of hospitals which shall have received Federal aid under this subchapter, such State shall not be entitled to any further allotments under section 291g of this title until such time as such State has enacted such legislation. Upon enactment of such legislation after July 1, 1948, the prohibition in this subsection against further allotments to such State under this subchapter shall no longer be effective and such State shall, subject to the other requirements of this subchapter, be entitled to allotments under section 291g of this title for the fiscal year in which such legislation is enacted and for the preceding fiscal year.

**(e) Standards of Federal share of cost.**

The State plan may include standards for determination of the Federal share of the cost of projects approved in the State. Such standards shall provide equitably (and, to the extent practicable, on the basis of objective criteria) for variations between projects or classes of projects on the basis of the economic status of areas, relative need as between areas for additional hospital facilities, and other relevant factors. No such standards shall provide for a Federal share of more than 66⅔ per centum or less than 33⅓ per centum of the cost of construction of any project. The Surgeon General shall approve any such standards and any modifications thereof which comply with the provisions of this subsection. (July 1, 1944, ch. 373, title VI, § 623, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 554, 62 Stat. 536; Oct. 25, 1949, ch. 722, § 3 (a), 63 Stat. 899.)

**AMENDMENTS**

1949—Subsec. (e) added by act Oct. 25, 1949.

1948—Subsec. (d) amended by act June 19, 1948, to restore eligibility to participate in Federal grants for hospital construction a State which has ceased to be eligible because of its failure to enact, prior to June 1, 1948, legislation requiring compliance with standards of maintenance and operation by hospitals receiving such grants.

**EFFECTIVE DATE OF 1949 AMENDMENT**

Amendment of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

**§ 291g. Allotments to States for construction; amount; availability of unexpended funds.**

Each State for which a State plan has been approved prior to or during a fiscal year shall be entitled for such year to an allotment of a sum bearing the same ratio to the sums authorized to be appropriated pursuant to section 291d of this title for such year as the product of (a) the population of such State and (b) the square of its allotment percentage (as defined in section 291i (a) of this title) bears to the sum of the corresponding products for all of the States: *Provided*, That no such allotment to any State shall be less than \$200,000 but for the purpose of this proviso the term State shall not include the Virgin Islands. The amount of the allotment to a State shall be available, in accordance

with the provisions of section 291d—291h of this title, for payment of the Federal share of the cost of approved projects within such State. The Surgeon General shall calculate the allotments to be made under this section and notify the Secretary of the Treasury of the amounts thereof. Sums allotted to a State for a fiscal year for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted for such State for such next fiscal year. Any amount of the sum authorized to be appropriated for a fiscal year which is not appropriated for such year, or which is not allotted in such year by reason of the failure of any State or States to have plans approved under sections 291j—291h of this title, and any amount allotted to a State but remaining unobligated at the end of the period for which it is available to such State, is authorized to be appropriated for the next fiscal year in addition to the sum otherwise authorized under section 291d of this title. (July 1, 1944, ch. 373, title VI, § 624, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103; Oct. 12, 1949, ch. 772, §§ 3 (b), 7, 63 Stat. 899, 901.)

**AMENDMENTS**

1949—Act Oct. 25, 1949, amended section by increasing minimum allotment from \$100,000 to \$200,000, and by substituting "the Federal share" for "33⅓ per centum" in second sentence.

1948—Act June 29, 1948, amended first sentence of section by adding the proviso.

**EFFECTIVE DATE OF 1949 AMENDMENT**

Amendment of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

**APPROPRIATIONS FOR FISCAL YEARS 1948-1951**

Section 2 of act June 29, 1948, provided that: "There are hereby authorized to be appropriated for the fiscal year ending June 30, 1948, and for each of the three succeeding fiscal years, such sums as may be necessary to provide increased allotments for the construction of hospitals pursuant to the first sentence of section 624 of the Public Health Service Act, as amended by the first section of this Act [this section]."

**§ 291h. Projects for construction—(a) Application; contents; approval by Surgeon General; hearing prior to disapproval.**

For each project for construction pursuant to a State plan approved under sections 291d—291h of this title, there shall be submitted to the Surgeon General through the State agency an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such applications shall set forth (1) a description of the site for such project; (2) plans and specifications therefor in accordance with the regulations prescribed by the Surgeon General under section 291e (e) of this title; (3) reasonable assurance that title, as defined in section 291i (j) of this title, to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the hospital; (4) reasonable assurance that adequate financial support

will be available for the construction of the project and for its maintenance and operation when completed; (5) reasonable assurance that the rates of pay for laborers and mechanics engaged in construction of the project will be not less than the prevailing local wage rates for similar work as determined in accordance with sections 276a to 276a-5 of Title 40; and (6) a certification by the State agency of the Federal share for the project. The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Surgeon General finds (A) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (B) that the plans and specifications are in accord with the regulations prescribed pursuant to section 291e of this title; (C) that the application is in conformity with the State plan approved under section 291f of this title and contains an assurance that in the operation of the hospital there will be compliance with the applicable requirements of the State plan and of the regulations prescribed under section 291e (f) of this title regarding the provision of facilities without discrimination on account of race, creed, or color, and for furnishing needed hospital facilities for persons unable to pay therefor, and with State standards for operation and maintenance; and (D) that it has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 291e (d) of this title. No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

**(b) Certification to Treasury; payments; withholding of certification.**

Upon approving an application under this section, the Surgeon General shall certify to the Secretary of the Treasury an amount equal to the Federal share of the estimated cost of construction of the project and designate the appropriation from which it is to be paid. Such certification shall provide for payment to the State, except that if the State is not authorized by law to make payments to the applicant the certification shall provide for payment direct to the applicant. Upon certification by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, the Surgeon General shall certify such installment for payment by the Secretary of the Treasury; except that if the Surgeon General, after investigation or otherwise, has ground to believe that a default has occurred requiring action pursuant to section 291j (a) of this title, he may, upon giving notice of hearing pursuant to said subsection (a) of section 291j of this title, withhold certification pending action based on such hearing.

**(c) Amendment of application.**

Amendment of any approved application shall be subject to approval in the same manner as an original

application. Certification under subsection (b) of this section may be amended, either upon approval of an amendment of the application or upon revision of the estimated cost of a project. An amended certification may direct that any additional payment be made from the applicable allotment for the fiscal year in which such amended certification is made.

**(d) Use of funds.**

The funds paid under this section for the construction of an approved project shall be used solely for carrying out such project as so approved.

**(e) Recovery of expenditures under certain conditions.**

If any hospital for which funds have been paid under this section shall, at any time within twenty years after the completion of construction, (A) be sold or transferred to any person, agency, or organization, (1) which is not qualified to file an application under this section, or (2) which is not approved as a transferee by the State agency designated pursuant to section 291f (a) (1) of this title, or its successor, or (B) cease to be a nonprofit hospital as defined in section 291i (g) of this title, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a hospital which has ceased to be a nonprofit hospital, from the owners thereof) an amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such hospital is situated) of so much of the hospital as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects.

**(f) Approval of funds for completion of projects; additional amounts.**

If the Surgeon General finds with respect to an application for a hospital project that—

(1) the project is for the completion of a hospital the construction of which was commenced prior to October 25, 1949 and without Federal aid under this subchapter;

(2) completion of construction is necessary for use of the completed portion as a hospital;

(3) the State agency has certified that the applicant is unable, by use of all available funds and by exercise of reasonable effort in obtaining additional funds, to pay the non-Federal share (determined without regard to this subsection) of the cost of completing the hospital but will be able to complete construction with the additional Federal aid provided by this subsection;

(4) the plans and specifications for the entire hospital are in accord with the regulations prescribed pursuant to section 291e of this title, or if not in accord with such regulations, meet substantially the objectives of such regulations;

(5) the application meets all the requirements of subsection (a) of this section except in the respects covered by clauses (3) and (4) of this subsection and contains assurances applicable to the operation and maintenance of the entire hospital which meet the requirements of such subsection; and

(6) the unobligated balance of the sum allotted to the State is equal to or greater than the Federal share of the estimated cost of construction of such project plus the additional amount specified below in this subsection;

he shall approve the application. Upon such approval the Federal share of the estimated cost of such project plus an additional amount not to exceed (1)  $33\frac{1}{3}$  per centum of the necessary cost to the applicant of the construction completed prior to such approval, or (2) the amount certified by the State agency as necessary to complete the construction of the hospital, whichever is less, shall constitute a contractual obligation of the Federal Government, and certifications for payment under subsection (b) of this section shall be on the basis of the Federal share plus such additional amount: *Provided*, That the total amount certified for payment shall not exceed the cost of construction of such project. (July 1, 1944, ch. 373, title VI, § 625, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended Oct. 25, 1949, ch. 722, § 3 (b—d), 8, 63 Stat. 899, 901.)

#### AMENDMENTS

1949—Subsec. (a) amended by act Oct. 25, 1949, which inserted second sentence permitting the filing of joint applications, deleted "solely" and included reference to definition of title and authorized vesting of title in applicants or operators of hospital in cl. (3), added cl. (6), and substituted "Federal share" for " $33\frac{1}{3}$  per centum" in next to last sentence in addition to other technical changes.

Subsec. (b) amended by act Oct. 25, 1949, § 3 (b), which substituted "the Federal share" for " $33\frac{1}{3}$  per centum" in first sentence.

Subsec. (e) amended by act Oct. 25, 1949, § 3 (c), which changed the amount recoverable by the United States from  $33\frac{1}{3}$  per centum of then value, to an amount bearing the same ratio to then value as amount of Federal participation bore to cost of construction.

Subsec. (f) added by act Oct. 25, 1949, § 3 (d).

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

#### ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see 1950 Reorg. Plan No. 14, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267, set out in note under section 133z-15 of Title 5, Executive Departments and Government Officers and Employees.

#### § 291i. Allotment percentages; promulgation of percentages; definitions.

For the purposes of this subchapter—

(a) the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska), except that (1) the allotment percentage shall in no case be more than 75 per centum or less than  $33\frac{1}{3}$  per centum, and (2) the allotment percentage for Alaska and Hawaii shall be 50 per centum each, and the allotment percentage for Puerto Rico and the Virgin Islands shall be 75 per centum;

(b) the allotment percentages shall be promulgated by the Surgeon General between July 1 and

August 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Surgeon General shall promulgate such percentages as soon as possible after August 13, 1946, which promulgation shall be conclusive for the fiscal year ending June 30, 1947;

(c) the population of the several States shall be determined on the basis of the latest figures certified by the Department of Commerce;

(d) the term "State" includes Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the District of Columbia;

(e) the term "hospital" (except as used in section 291e (a) and (b) of this title) includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, out-patient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care;

(f) the term "public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers;

(g) the term "nonprofit hospital" means any hospital which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(h) the term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land;

(i) the term "cost of construction" means the amount found by the Surgeon General to be necessary for the construction of a project;

(j) the term "title", when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project;

(k) the term "Federal share" with respect to any project means the proportion of the cost of construction of such project to be paid by the Federal Government under sections 291d—291h of this title. In the case of any project approved prior to October 25, 1949, the Federal share shall be  $33\frac{1}{3}$  per centum of the cost of construction of such project. In the

case of any project approved on or after October 25, 1949, the Federal share shall be determined as follows:

(1) If the State plan, as of the date of approval of the project application, contains standards approved by the Surgeon General pursuant to section 291f (e) of this title, the Federal share with respect to such project shall be determined by the State agency in accordance with such standards;

(2) If the State plan does not contain such standards, the Federal share shall be the amount (not less than 33 1/3 per centum and not more than either 66 2/3 per centum or the State's allotment percentage, whichever is the lower) established by the State agency for all projects in the State: *Provided*, That prior to the approval of the first project in the State during any fiscal year, the State agency shall give to the Surgeon General written notification of the Federal share established under this paragraph for projects in such State to be approved by the Surgeon General during such fiscal year, and the Federal share for projects in such State approved during such fiscal year shall not be changed after such approval. (July 1, 1944, ch. 373, title VI, § 631, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 19, 1948, ch. 544, 62 Stat. 531; Oct. 25, 1949, ch. 722, § 9, 63 Stat. 901.)

#### AMENDMENTS

1949—Subsec. (g) amended by act Oct. 25, 1949, which changed definition of nonprofit hospital to include one or more nonprofit corporations or associations.

Subsec. (h) amended by act Oct. 25, 1949, struck out "and" at end of subsec.

Subsec. (i) amended by act Oct. 25, 1949, which substituted a semicolon for a period.

Subsecs. (j) and (k) added by act Oct. 25, 1949

1948—Subsec. (a) amended by act June 19, 1948, § 1 (a), which added "and the Virgin Islands" after "Puerto Rico"

Subsec. (d) amended by act June 19, 1948, § 1 (b), which added "Virgin Islands" to definition of "State".

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

### § 291j. Withholding of certification; noncompliance with requirements; appeal; conclusiveness of findings; jurisdiction of courts of appeals; review by Supreme Court.

(a) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated in accordance with section 291b (a) (1) of this title, finds that the State agency is not complying substantially with the provisions required by section 291b (a) of this title to be contained in its application for funds under sections 291a—291c of this title, or after reasonable notice and opportunity for hearing to the State agency designated in accordance with section 291f (a) (1) of this title finds (1) that the State agency is not complying substantially with the provisions required by section 291f (a) of this title, or by regulations prescribed pursuant to section 291e of this title, to be contained in its plan submitted under section 291f (a) of this title, or (2) that any funds have been diverted from the purposes for which they have been allotted or paid, or (3) that any

assurance given in an application filed under section 291h of this title is not being or cannot be carried out, or (4) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 291h of this title, or (5) that adequate State funds are not being provided annually for the direct administration of the State plan, the Surgeon General may forthwith notify the Secretary of the Treasury and the State agency that no further certification will be made under sections 291a—291c or 291d—291h of this title, as the case may be, or that no further certification will be made for any project or projects designated by the Surgeon General as being affected by the default, as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected by such default, he may withhold further certifications until there is no longer any failure to comply, or, if compliance is impossible, until the State repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

(b) (1) If the Surgeon General refuses to approve any application under section 291h of this title, the State agency through which the application was submitted, or if any State is dissatisfied with the Surgeon General's action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Surgeon General shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Surgeon General, unless substantially contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive unless substantially contrary to the weight of the evidence.

(3) The court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of Title 28. (July 1, 1944, ch. 373, title VI, § 632, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107, Oct. 25, 1949, ch. 722, § 4, 63 Stat. 900.)

#### REFERENCES IN TEXT

Sections 346 and 347 of Title 28 referred to in the text, were repealed by act June 25, 1948, ch. 646, § 30, 62 Stat. 992, and are now covered by section 1254 of Title 28, Judiciary and Judicial Procedure.



## AMENDMENTS

1940—Subsec. (a) amended by act Oct. 25, 1949, which inserted cl. (5).

## CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted "court of appeals" in lieu of "circuit court of appeals".

## EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

## ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see 1950 Reorg. Plan No. 14, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267, set out in note under section 133z-15 of Title 5, Executive Departments and Government Officers and Employees.

**§ 291k. Administration by Surgeon General; Federal Hospital Council; composition; appointment and tenure of members; utilization of services and facilities.**

(a) The Surgeon General is authorized to make such administrative regulations and perform such other functions as he finds necessary to carry out the provisions of this subchapter. Any such regulations shall be subject to the approval of the Administrator.

(b) In administering this subchapter, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman *ex officio*, and eight members appointed by the Administrator. Four of the eight appointed members shall be persons who are outstanding in fields pertaining to hospital and health activities, three of whom shall be authorities in matters relating to the operation of hospitals, and the other four members shall be appointed to represent the consumers of hospital services and shall be persons familiar with the need for hospital services in urban or rural areas. Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and the terms of office of the members first taking office shall expire, as designated by the Administrator at the time of appointment, two at the end of the first year, two at the end of the second year, two at the end of the third year, and two at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms but shall be eligible for reappointment if he has not served immediately preceding his reappointment. The Council is authorized to appoint such special advisory and technical committees as may be useful in carrying out its functions. Appointed Council members and members of advisory or technical committees, while serving on business of the Council, shall receive compensation at rates fixed by the Administrator, but not exceeding \$50 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence. The Council shall meet as fre-

quently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(c) In administering the provisions of this subchapter, the Surgeon General, with the approval of the Administrator, is authorized to utilize the services and facilities of any executive department in accordance with an agreement with the head thereof. Payment for such services and facilities shall be made in advance or by way of reimbursement, as may be agreed upon between the Administrator and the head of the executive department furnishing them. (July 1, 1944, ch. 373, title VI, § 633, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, and amended June 24, 1948, ch. 621, § 6 (b), 62 Stat. 602.)

## AMENDMENTS

1948—Subsec. (b) amended by act June 24, 1948, increased compensation rates from "\$25" to "\$50" per day.

## ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see 1950 Reorg. Plan No. 14, eff. May 24, 1950, 15 F. R. 3176, 64 Stat. 1267, set out in note under section 133z-15 of Title 5, Executive Departments and Government Officers and Employees.

**§ 291l. Conferences of State agencies.**

Whenever in his opinion the purposes of this subchapter would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 291b (a) (1) or section 291f (a) (1) of this title, to confer as he deems necessary or proper. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. (July 1, 1944, ch. 373, title VI, § 634, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041.)

**§ 291m. State control of agencies.**

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any hospital with respect to which any funds have been or may be expended under this subchapter. (July 1, 1944, ch. 373, title VI, § 635, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041.)

**§ 291n. Studies and demonstrations to coordinate facilities; grants-in-aid to States, etc.; limitation on expenditures.**

In carrying out the purposes of section 241 of this title with respect to hospital facilities, the Surgeon General is authorized to conduct research, experiments, and demonstrations relating to the effective development and utilization of hospital services, facilities, and resources, and, after consultation with the Federal Hospital Council, to make grants-in-aid to States, political subdivisions, universities, hospitals, and other public and private nonprofit in-

stitutions or organizations for projects for the conduct of research, experiments, or demonstrations relating to the development, utilization, and coordination of hospital services, facilities, and resources. Any award made under this section for any such project in any fiscal year may include amounts for not to exceed the four succeeding fiscal years, and such amounts for such succeeding fiscal years shall constitute contractual obligations of the Federal Government: *Provided*, That the total expenditures for all such projects may not exceed \$1,200,000 in any fiscal year. (July 1, 1944, ch. 373, title VI, § 636, as added Oct. 25, 1949, ch. 722, § 5, 63 Stat. 900.)

#### EFFECTIVE DATE

Addition of section by act Oct. 25, 1949, effective as of Oct. 25, 1949, see note set out under section 291 of this title.

### Chapter 7.—SOCIAL SECURITY

#### SUBCHAPTER I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

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#### SUBCHAPTER II.—FEDERAL OLD-AGE AND SURVIVORS INSURANCE BENEFITS

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